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FISCAL YEAR 1985 BUDGET AUTHORIZATION OF IMMIGRATION AND NATURALIZATION SERVICE

HEARING

BEFORE THE

SUBCOMMITTEE ON
IMMIGRATION AND REFUGEE POLICY

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

IMMIGRATION AND NATURALIZATION SERVICE BUDGET AUTHORIZATION FOR FISCAL YEAR 1985

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FISCAL YEAR 1985 BUDGET AUTHORIZATION OF IMMIGRATION AND NATURALIZATION SERVICE

TUESDAY, MARCH 13, 1984

U.S. SENATE,
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:40 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Alan K. Simpson (chairman of the subcommittee) presiding.

Present: Senator Kennedy.

Staff present: Richard W. Day, chief counsel and staff director; and Jerry M. Tinker, minority counsel.

OPENING STATEMENT OF HON. ALAN K. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING, CHAIRMAN, SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY

Senator SIMPSON. The hearing will come to order.

It took me so long to get past the Finance Committee down the hall there, obviously there is a lot of bleeding going on out there. It took a while to work my way through the tortured souls that are standing right out there in the hallway.

Welcome to the subcommittee. We will have our budget authorization hearing beginning with you, Mr. Commissioner. Since you were confirmed 3 years ago, you and I have come to know each other rather well; I have enjoyed that very much. I have enjoyed working with Doris Meissner and Alan Eliason and others. I appreciate that. It has been very important. I follow the work that you have tried to accomplish, the efforts you have tried to accomplish at the Immigration Service during your tenure, particularly all of you being accessible and available to the public and to your detractors. It is a very important part of your work.

You and I, and I remember Doris, too, have played to some rather tough audiences over the past 3 years on various issues with regard to immigration. We have entered into the fray. It has been a very interesting time, but there is much to be done. I think that this budget request indicates that you are certainly getting your message across to someone up there, that you are up to some important things, regardless of whether immigration reform legislation passes or not. That is another story. We now await House action on their version, and that should come soon. I hope it will. I know you share that view, something which addresses illegal immi-

gration, which is such a serious problem to your agency, and tries to do it in a humane and in an enforceable manner.

I think that what has been interesting for me in the 3 years is that increasing the enforcement of existing laws has been a clear preference of Congress in recent years. It is now supported by the proponents and the opponents of any kind of legislative activity. I think that remains essential.

I am pleased to see that we have the largest proposed increase in INS resources in many years. I am particularly pleased to note there are nearly 1,500 new positions requested for enforcement programs, 850 of which are designated for Border Patrol personnel. That should assist significantly in addressing the loss of control which you experience at our borders and which gave rise to the legislation in the first place, on that aspect.

I look forward to your testimony. After that testimony, we will have a short statement of Roger Brandemuehl and Alan Eliason. We will arrange that. Right now, I am very pleased to have you here. You may introduce those of your capable staff that you wish to.

STATEMENT OF ALAN C. NELSON, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, ACCOMPANIED BY DORIS M. MEISSNER, EXECUTIVE ASSOCIATE COMMISSIONER; RAY KISOR, DESIGNEE, ASSOCIATE COMMISSIONER FOR ENFORCEMENT; ROGER P. BRANDEMUEHL, ACTING ASSOCIATE COMMISSIONER FOR ENFORCEMENT; AND ALAN ELIASON, CHIEF OF BORDER PATROL, CHULA VISTA SECTOR

Mr. NELSON. Thank you, Mr. Chairman. It is again a pleasure to be before you and the subcommittee and your staff. We reciprocate your kind feelings about our working relationship with you about the results that I think we at the Service have accomplished and have under way, and certainly the tremendous leadership that you have shown toward immigration generally, the Immigration Service in particular, and also the immigration reform bill which, as you state, we hope the House will act on promptly so that we can get the much needed legislation.

Let me, if I might, introduce the very capable staff with me today. They are, like myself, available to answer questions at the conclusion of the testimony. I might say, in general, that I personally feel very proud about the excellent staff we have here. There are a number of new people, a number of people who have had many years of experience in the Service. There is a tremendous balance of talent and these are the people who have really made the Service go. On my left, you know Doris Meissner, Executive Associate Commissioner, who has certainly done a great leadership job in her time with the Service. To my immediate right is Ray Kisor, whom I do not think you met before, Mr. Chairman. Ray is the Designee for the Associate Commissioner for Enforcement, taking Joe Salgado's place. Ray has a good background in law enforcement in New York State and also served for several terms in the New York State Legislature. So he knows something about legislative issues.

You know Buck Brandemuehl, who is the Assistant Commissioner for Border Patrol and during the last 6 months has been the Acting Associate Commissioner for Enforcement. At the far end of the table is Alan Eliason, the chief patrol agent in Chula Vista, the largest sector in the Border Patrol. Prior to that, he had been the chief in El Paso. He has had roughly half of the Border Patrol under his command in these two positions. Both Buck and Eli will testify following me, since the budget request deals so largely with the enforcement issues and the border in particular. We thought it appropriate that they address specifically some of the issues involved.

Behind me, and available for testimony, too, are Mike Inman, our general counsel. Certainly, our legal procedures are done very, very well under Mike's leadership. Andy Carmichael is Associate Commissioner for Examinations. Likewise, Andy has been a real leader in all our areas. John Murray is Associate Commissioner for Information Systems. Some of the comments I will make later prove John's leadership in data processing has been outstanding in his couple of years with the service. Joe Sylvester is Acting Associate Commissioner for Management. Mike Arnold is the Comptroller. Greg Leo has worked closely with you and the committee, and is director of congressional and public affairs. I hope I did not miss any others. We have several other staff member here as backup, also.

I would like to introduce two people in absentia. As you know, Gerry Riso, our Deputy Commissioner, has just recently returned to the private sector. I would like to acknowledge for the record the outstanding job that Gerry did as a manager, as a leader, and a great team player. We were certainly sorry to have him depart, but he really did a super job.

We are also pleased to announce that we have a successor as Deputy Commissioner, a man named Tom Ferguson, who will be joining us the first of April. Tom currently is the Eastern Caribbean Director of the Peace Corps. He recently had an article and his picture in the U.S. News and World Report. We look forward to Tom's leadership upon joining us in several weeks. I look forward to introducing him to you, Mr. Chairman, and the committee.

We have our testimony. I will submit it for the record. I will just briefly summarize it at this point.

I am pleased to appear on behalf of the 1985 fiscal year budget request for the Immigration and Naturalization Service. It is a total budget request of $574,539,000 and 11,473 positions. This is a net increase over the fiscal year 1984 request of almost $64 million and a net increase of 872 positions.

As you indicated, Mr. Chairman, the bulk and the major portion of this increase is devoted to enhanced law enforcement, particularly along our southern border. We look at this enforcement increase as an administration proposal that we think makes great sense and is extremely necessary. We also look at it as a down payment on an enhanced immigration enforcement called for by the Immigration Reform and Control Act. We hope that this step forward can be a catalyst for the House to take action. This is really a part of the three-legged stool that you often have addressed and one that we

need so badly, along with the sanctions and other elements of the bill.

I will briefly make a couple of comments on the enforcement end, leaving much of that to the other gentlemen. As you know, the apprehensions have been dramatically up. In January of this year, they were up 10 percent over a year before; February, up over 23 percent. Just recently in Chula Vista, Chief Eliason's sector, they reached an all-time record of 1-day apprehensions of 2,854 illegal aliens, a very significant number.

The budget does have a minor reduction of 150 positions, $4.8 million, a realignment of some of our management positions that follow recommendations of the Grace Commission. This really continue along the management approaches we were already following.

As I indicated, I believe the increases we are talking about are necessary for ongoing border enforcement. They are not tied to any new legislation. We certainly are going to be in a position, should that legislation pass, of coming in with an appropriation supplemental.

The increase, Mr. Chairman, we are pleased to present as a package. You just cannot only have increased border patrolmen. You need other elements along with it. So, in addition to the 850 Border Patrol positions, there are 108 detention and deportation positions and 18 attorney positions to concentrate on removing those that we are apprehending.

One of the questions, of course, is what impact will this have on our enforcement and on the illegal immigration issue. Of course, it is our hope that, with the increased resources, we can move toward the position where it will have a deterrent effect and that apprehensions will eventually decrease. We would not expect that to occur immediately, but we hope that is the end result.

I mentioned a little before that interior enforcement really needs to be addressed in the new legislation and the followup there. We have, however, improved a great deal in management areas. I will discuss a few of these very briefly. In the enforcement area, we have introduced and are implementing a case management system where we concentrate on employment sites. We concentrate on illegal aliens who are earning good wages, where there is a displacement factor and where illegal aliens are drawing benefits. We have had significant successes in that area which we will discuss later.

I will turn now, Mr. Chairman, to the service side of our business. We feel very good about a lot of things we have done. There have been many innovative procedures in the last few years that have greatly improved service and that will give us the basis to improve it more as we go downstream in the next few years. Without going into the details, we have implemented up-front adjudications and regional adjudication centers have been expanded. We process many applications away from the scene of the individuals, where the officers can concentrate on adjudication. We have the remoting of applications to ports of entry, where they have time; that has worked effectively.

We are developing and implementing a balanced adjudication system that can really draw on these various approaches I men-

tioned, with the goals of increasing productivity, reducing backlogs, and creating a better response to the public.

Part of that response to the public is included in another budget item. That is the improved telephone service. We do request $1.679 million and 22 positions in the 1985 budget for this improved telephone service, which will allow expansion of the existing eastern regional telephone service center, and establishment of a similar center in the West. This centralizes telephone answering. During a test in the East, we have had very good success. We have more than doubled the number of calls handled. We found that 66 percent, two-thirds of telephone inquiries, can be answered by taped information. We see the expansion of this as helping those goals I mentioned a moment ago.

Tied in with that, we have implemented and expanded our "Ask Immigration" tape capability. It is now in use in 16 offices. It is up from the number of offices 1 year ago. We have had a 90 percent customer approval rate with that program.

The area of automation, as I mentioned briefly while introducing John Murray, I think, has been one of which we can be very proud. The Congress, certainly with your leadership, the House, and with OMB's assistance, we had a 2-year appropriation which enabled us to do a lot in the automation area in improving and expanding. We are pleased to say that the implementation of much of this automation is actually ahead of schedule by as much as 1½ years. We believe that the proposed new Dallas, TX, data center, in addition to the one here in Washington, will provide adequate processing facilities to cover our needs for the next 5 years.

I will touch on some of the systems that are listed in the testimony. There is the INS integrated network communications system. There is the nonimmigrant information system. This will account for the foreign visitors in the United States. It has been operational for 1 year now. There are 16 million records in that system.

The central index system is replacing the somewhat inflexible MIRAC, the master index system. We see that as having a tremendous potential in the years ahead.

The alien status verification index is being implemented. We can, by cross-referencing with State systems, match and determine eligibility for public benefit programs. That has already been implemented in Colorado, California, and Illinois, with tremendous success. In Los Angeles County, for example, in a short time they documented over $30 million of savings of government expense for people not being entitled to welfare benefits that would otherwise receive payment if it were not for this matching. This has a tremendous impact for the future. We hope to expand that. We not only can save millions of dollars for States and the Federal Government but we can be in a position, as with employer sanctions, to make it tough for the illegal aliens to either have jobs or to get benefits. We think that is important.

The casework support system which deals with forms, reports, schedules, and statistics, will be implemented this year.

The service lookout system, there is a test already under way at Baltimore-Washington International Airport, and we expect it to go into other airports. This can be very significant in our inspection system.

The business support systems is another important one.

The Alien Documentation Intelligence and Telecommunications Program is where we issue computer-based, fraud-resistent identity documents to resident aliens and other entrants. I know that that is an area of great interest to you. Already 5 million cards have been issued. We are currently issuing 1 million a year.

Another item that has not received a lot of attention but is certainly worthy of note is our program of regulatory reform. We have issued new regulations in the Service in the last several years which have saved an estimated $27.8 million. In addition, we have increased our fees for services, updated our fee schedule, raising another $25 million. So, we are talking about an increase of over $50 million due to regulatory improvements.

These ties, Mr. Chairman, to other things we have done in the management area. Our priorities management system, or management by objectives, has been very significant. It has worked well and is used in the field now. We are very pleased with that.

Our decision memo process is a way of documenting our decisions. We have continued our candidate selection interview process, which has been very good.

The last item, if I could take a moment, concerning which we have briefed you personally and look forward to briefing the committee and others in more detail, is the administration's proposal for consolidation of primary inspection and certain border control functions between Customs and the Immigration Service. Under this program, all land border primary inspections will be given to INS. The responsibility for airport and seaport primary inspections will be given to Customs. Both will continue secondary roles. Customs will have the preclearance airport responsibility. All patrol functions will be the responsibility of INS, transferring the Customs patrol functions to INS. We think this is a good program. It makes a lot of management sense. It avoids duplication. It is efficient. It is the only viable compromise in this difficult area that Congress and the public have demanded solutions for 50 years. Certainly from the INS' point of view, giving us the consolidated land border responsibility of the patrol and inspections, is very significant. I would certainly urge the committee to look at this closely and support this proposal, which we hope to be able to implement through a reorganization plan.

Mr. Chairman, at this point I will conclude my testimony. I would like Mr. Brandemuehl and Chief Eliason to make a few remarks on the enforcement package.

Senator SIMPSON. Without objection, we will insert your prepared statement.

[Material submitted for the record follows:]

Prepared Statement of Alan C. Nelson

Mr. Chairman and Members of the Subcommittee:

First, I commend your tremendous support of the immigration reform legislation, as evidenced by the prompt passage of S.529 last year by an overwhelming vote. Senator Simpson, I applaud your powers of persuasion with the House leadership, which has reversed its opposition to the consideration of H.R. 1510 and now promises to bring it to the House floor for debate by the end of this month.

I am pleased to have the opportunity to appear before you in support of the fiscal year 1985 budget request for the Immigration and Naturalization Service of $574,539,000 and 11,473 positions. This represents a net increase over fiscal year 1984 of $63,901,000 and 872 positions. The major portion of this increase will be devoted to enhanced law enforcement along our Southern border where we apprehended a record 1.1 million illegal aliens in fiscal year 1983. This Administration is proposing a net programmatic increase of $43 million and nearly 1,000 positions for enforcement. This is a downpayment on the enhanced immigration enforcement called for by the Immigration Reform and Control Act. In addition, reductions in personnel are proposed primarily in management and administrative functions.

Apprehensions on the Southern border continue to set new records almost every month. Apprehensions through January 1984 were up 10 percent over last year's figures for the same period. The February 1984 figures are up 23 percent over last year. The increase in February suggest a recurrence of the of last year's experience. Our Chula Vista Sector set a new record for a single day's apprehensions on February 12, 1984 when 2,504 illegal aliens were apprehended and another new record on February 19, when 2,854 illegal aliens were apprehended.

The Budget proposes a reduction of 150 positions and $4.8 million to implement a recommendation of the Grace Commission. The savings will be achieved through a realignment of the roles, and responsibilities of personnel in the Central and Regional offices.

This year's request reflects recognition of the need by the Administration the Attorney General and myself for a significant increase in our enforcement resources. We recognize similar recognition of such need by Chairman Simpson and other members of this subcommittee. Let me emphasize that the proposed enhancements in enforcement are not tied to any new legislation, but are directed to the enforcement of existing laws and our current responsibilities. We believe the additional personnel will enable us to make major improvements in enforcement. Although our Southern border is nearly 2,000 miles long, 57 per cent of Border Patrol apprehensions occur in two sections of the boundary totaling 120 miles at Chula Vista, California and El Paso, Texas. Deserts, mountains and other natural barriers make other areas hazardous to cross and relatively easy to control. We intend to concentrate the additional personnel and equipment at the heaviest crossing points.

Along with the 850 additional Border Patrol officers and support personnel, the Administration is also requesting 108 detention and deportation positions, and 18 attorney positions, which will enable us to remove from the country the greater number of illegal entrants that are expected to be apprehended. We anticipate as the increased Border Patrol presence becomes obvious, a deterrent effect will occur and apprehensions will eventually decrease.

With regard to interior enforcement, we look forward to the enactment of the employer sanctions provisions of the immigration reform legislation as the key to deterring illegal alien presence in the United States as well as future entries. Meanwhile, we have implemented a case management system to concentrate our interior investigations on cases that will have a significant effect on illegal immigration as it relates to the United States labor market, economy, government benefits, and such sociological phenomena as crime or massive and organized fraud. We continure to place a high priority on visits to employment sites where illegal aliens are working at attractive wages. We have expanded our cooperative programs with federal, state and local agencies to check the verities of alien applicants for

benefits. This includes everything from AFDC to student loans to unemployment insurance.

While stressing improved law enforcement, INS has also emphasized our service to the public responsibilities. In the past year we have implemented and expanded a number of innovative procedures to improve service. These investments will assist in continuing to improve service in 1985 at little or no additional cost.

INS has developed several different processing modes in order to increase productivity and at the same time to focus manpower in certain labor intensive areas such as naturalization, asylum, and adjustment of status. Currently, certain applications are processed on a walk-in immediate decision basis (Up-Front Adjudication or UFA). Other casework is quickly transferred to one of four regional Adjudications Centers (RAC) where adjudicators, removed from direct public contact and non-adjudicative duties, complete casework on a 30 day turnaround basis. Some casework is upon receipt routed to airports and land ports of entry where immigration inspectors complete casework when they are not inspecting applicants for admission (POE remoting). Labor intensive casework requiring interviews, investigation, or other action is retained in Service district offices. Processing of applications under the UFA and RAC subsystems is generally more efficient.

The Service is presently identifying types of casework which can be most productively processed under each adjudicating method and in FY 1984 the Service will implement a "Balanced Adjudication System" based upon the relative efficiencies of each method. The goals of the System are to increase overall productivity, reduce backlogs, and to significantly increase responsiveness to the public. Implementation of the system will require increasing staff at the regional adjudications centers and reallocating personnel resources among regions and districts based upon relative workoad (applications and petitions received).

For 1985, we are requesting $1,679,000 and 22 positions for information response and improved telephone service to the public. These resources

will allow for the expansion of our Eastern Regional Telephone Service Center and the establishment of a center in the Western Region. These centers will serve to centralize telephone answering for a number of field offices and permit the contact representatives at district offices to respond to inperson inquiries without telephone interruptions. In addition the Service will be better able to handle an increasing number of calls from the public. Last year during a test, the number of calls handled more than doubled the amount usually handled at the three district offices. More than 66 percent of the telephone inquiries can be answered by taped information.

Next I would like to present some recent improvements that have been made at INS since I accepted the responsibility as Commissioner. First, the "Ask Immigration" telephone capability provides callers with prerecorded information on 47 different subjects representing the most commonly asked questions. These systems are in use in 16 INS offices, with more than 90 percent of callers indicating satisfaction with the response they received; 80 percent said it saved them from coming in or writing to an INS office.

Second, we are proceeding with automation on several major fronts utilizing funding which this Administration has sought and the Congress has appropriated in the past two years. The Service approach to ADP software and hardware acqusition was restructured and split into two separate procurement processes from a previously planned combined procurement effort. This new approach provides for a teamed approach to software development and distributed processing of ADP hardware and facilities management requirements, allowing for better control and direction of resources and implementation of automated systems one and one-half years in advance of planned implementation. The Service in concert with the Department of Justice Data Center is bringing up a data center facility in Dallas, Texas that will mirror the Data Center in Washington. This combined effort with the Department will guarantee adequate processing fac-

ilities for the increased system implementation activities INS has planned for the next 5 years.

Among the automated systems which have been added or expanded are the following:

- The INS INTEGRATED NETWORK COMMUNICATIONS SYSTEM (INSINC) to provide nationwide access to INS (and other agency) systems was implemented with over 56 sites operational currently and 116 planned by the end of 1984.

  INS, with the sixth largest radio system in the Federal Government, provides a nationwide tactical radio communications capability for all law enforcement activities in high activity areas of operation. A new word processing contract for 221 units provides standardized office automation capability.

- NONIMMIGRANT INFORMATION SYSTEM (NIIS) - is the only automated means the U.S. has for accounting for foreign visitors, diplomats and students and has been operational since January, 1983. The system currently has 16 milllion records on-line and in addition to providing status on individual nonimmigrants for tracking also provides reports on violators and statistics on arrivals, departures and destination. INS offices nationwide, and other agencies will access the system via dialup or dedicated terminals.

- CENTRAL INDEX SYSTEM - will provide a central repository of names and Alien Numbers of individuals of interest to the Service, and will replace the current inflexible Master Index Remote Access System (MIRAC). A baseline system will be implemented this year that will provide on-line inquiry at INS offices and other agencies involved in intelligence or law enforcement, A-file location information, immigration status and biographical data on 18 million individuals.

- ALIEN STATUS VERIFICATION INDEX - provides a vehicle whereby federal, state and local government agencies in conjunction with local INS offices can verify basic alien status information to determine eligibility for public benefit programs. The States of Colorado and Cali-

fornia are currently negotiating to have a direct computer tie into the INS telecommunications system and on-line access to this index through a defined and controlled program. Even under the current manual request basis, Colorado acknowledged a $500,000 savings in the first nine months of fiscal year 1983. Los Angeles County welfare officials have estimated an annual savings of over $30 million. This program has benefited several State governments by allowing them to identify illegal immigrants who seek to receive welfare benefits.

- CASEWORK SUPPORT SYSTEMS - to support, track and report on Naturalization and Deportation cases are currently being redesigned to provide automatic production of various forms and reports, produce schedules of naturalization hearings, maintain automated booking data for deportable detainees, and furnish workload statistics promoting optimum use of resources. Interim systems are currently operational in 13 offices with a combined total of 350,000 cases on-line. The newly redesigned systems will be implemented during 1984.
- SERVICE LOOKOUT SYSTEM - provides online information for the detection of inadmissible persons and others of particular interest to INS and other law enforcement agencies. The system is currently operational at the Baltimore/Washington International Airport facility and is scheduled for implementation at 7 other airports nationwide.
- BUSINESS SUPPORT SYSTEMS - The Service currently has an operational Financial Management Information System accommodating financial accounting, position and personnel accounting and Service vehicle accounting. A Productivity Measurement System providing graphical display of summary data at four reporting levels has been opational since 1983 with plans this year to expand and refine the system outputs.
- ALIEN DOCUMENTATION INTELLIGENCE AND TELECOMMUNICATIONS (ADIT) - The ADIT system provides the mechanism for the INS to issue computer-based, fraud-resistent identity documents to resident aliens and other classes of entrants such as border crossers and parolees. Since its

inception in the Spring of 1977, approximately 5,000,000 cards have been issued, with the current issue level being 1,000,000 per year. ADIT is the system of identifcation for all new resident aliens entering the U.S.

Third, in 1983 we implemented regulatory reforms saving an estimated $27.8 million dollars plus increasing fee revenue by $25 million. These changes also reduce processing time and requirements for petitions for benefits. This combined cost savings and revenue enhancement was achieved through a streamlining of procedures consistent with this Administration's efforts toward regulatory reform.

Fourth, management improvement will be continued in fiscal year 1985. Streamlining of management personnel will result in a proposed decrease of $4,800,000 and 150 management positions in line with the Grace Commission's recommendations.

We have installed the Priorities Management System, a management-by-objectives system, established to provide a uniform method of planning, implementing and monitoring the achievement of annual priorities. The priorities are select initiatives established on the basis of the recommendations of managers representing all Service operations. The system consists of plans for each priority, quarterly progress reports, independent assessments and quarterly meetings among Central and Regional managers to review progress and make adjustments.

Existing policy and new initiatives are reviewed through a decision memo procedure, which allows input on Service policy from all levels and involves the regional commissioners as well as Central Office executive staff in the consideration of policy changes.

We are continuing a formalized interview and selection system for the district directors and chief patrol agents to assess candidates for these key field management positions on the basis of past and potential performance.

Fifth, We look forward to more effective management and efficient processing of aliens and citizens entering the United States through the

consolidation of primary inspection Border Control functions. The plan approved by the President in January 1984 will:

--transfer responsibility for all land border passenger primary processing to INS;

--transfer responsibility for all airport and seaport passenger primary processing to the U.S. Customs Service (including inspections at all overseas preclearance airport locations); and

--transfer responsibility for all patrol functions between land ports to INS.

These transfers will reduce duplicative supervisory structures and maximize effective use of personnel.

Consultations have already begun with this and other Congressional committees. The detailed plan for consolidation will be coordinated with Congress. If the Administration obtains appropriate reorganization authority, a reorganization plan will be submitted. If not, the Administration will seek legislation to implement such consolidation. I promise to work closely with this Committee and ask for your support for this important management improvement program.

My staff and I are dedicated to continuing to build upon these improvements that have been made in recent years. Thank you again for your support for the service and of Immigration improvements and reform.

I will be pleased at this time to answer any questions you or the other members of this committee may have.

Senator SIMPSON. Mr. Brandemuehl, if you will, please?

STATEMENT OF ROGER P. BRANDEMUEHL

Mr. BRANDEMUEHL. Thank you, Mr. Chairman. It certainly is a privilege and honor to appear before this subcommittee today.

I would like to make a few brief comments about our enhanced border enforcement package. The Commissioner's statement indicated the magnitude of the problem we are facing along our southern border. It is well known illegal immigration and apprehensions have increased since the middle of the 1960's. However, beginning in August of 1982, these apprehensions escalated sharply, breaking all previous records in 1983 and heading for what appears to be another record year in 1984.

The problem is not just confined to Mexico. Apprehensions of other than Mexican aliens along the southern border are up 26 percent through January. Our intelligence officers are reporting increasing numbers of new smuggling networks involving Cubans, Chinese, Nicaraguans, and other nationalities.

The problem of controlling the border has never been more serious. In 1981, each Border Patrol sector and station was asked to prepare a detailed analysis of its resource needs. These were reviewed at the regional and central office levels, and a resource estimate was prepared. This estimate became the basis for our enhanced border enforcement plan. This plan has been refined, based upon new input from the sectors, updated by intelligence and additional analysis. Task force operations were also carried out at selected locations along the southern border to test the effectiveness of the proposed resource levels.

The result of all these efforts determined the resource levels included in the authorization request now before you. The strategy of the proposal has been carefully thought out. Sixty percent of the apprehensions made by the patrol are made on approximately 120 miles of the border, primarily in the El Paso, TX, and the Chula Vista, CA, sectors. Aliens choose these locations because they are easily accessible from Mexico, because the terrain is relatively easy to cross, and because they provide easy access to jobs. Therefore, the focus of the border enforcement plan is to target enough resources and technology in these areas to discourage aliens from crossing.

Smaller increases are requested for other areas of the border, both to deal with illegal alien traffic already existing at those locations and to address the spillover traffic anticipated from El Paso and Chula Vista.

If aliens can be discouraged from attempting entry at the major crossing points, successful entry will become a more formidable undertaking. It will be more difficult for the alien to reach the jumping-off point in Mexico. The terrain will be more difficult to cross. And there will be a longer distance to cover before a populated area can be reached. These factors give the Border Patrol more time to react and a better opportunity to use sensors, air observation, sign cutting, and other techniques to locate the crosser.

Now, what have we done to prepare for this enhancement package? Well, we have increased our intelligence surveillance and our

gathering capability and have instituted a new monthly southern border assessment report. The Service's air program has been improved, with helicopter hours up 49 percent over 1982.

Technology has been improved with critical testing of heat-sensitive viewing devices with ranges up to 3 miles. The procurement program for replacement sensor systems was improved.

At El Paso, remotely operated, low-level television systems are now being tested. We have great hopes for this system.

Recruitment and training systems have been improved. INS has obtained delegated authority for making suitability determination on applicants for Border Patrol agent positions, resulting in prompt, careful examination of applicants. The Border Patrol Academy training program has been updated, and its relationship to the actual needs of Border Patrol agents has been validated.

Planning was initiated several months ago as to how we could hire and train the number of Border Patrol agents contained in the request, while maintaining the present high quality of graduating trainees.

The Federal Law Enforcement Training Center at Glynco, GA, is making plans to conduct 22 Border Patrol agent classes, of 48 trainees each, during fiscal year 1985.

Back-up training facilities at Pineville, LA, and Kingsville, TX, have also been identified as alternatives to the Federal Law Enforcement Training Center, just in case some problem should develop there.

In summation, I firmly believe that this enhancement package will have a profound effect on reducing the number of illegal aliens attempting entry across our southern border. The assets contained in this request, coupled with the dedicated employees we now have, will lay the foundation for reestablishing the integrity of our borders in a manner consistent with the national interest and as established by Congress.

Mr. Chairman, I just would like to say that I think we are ready. If we give the assets to the field, I think they will do the job for us.

Thank you.

Senator SIMPSON. Thank you very much, Mr. Brandemuehl. I appreciate having your views.

[Material submitted for the record follows:]

PREPARED STATEMENT OF ROGER P. BRANDEMUEHL

Thank you Mr. Chairman. It certainly is a privilege to appear before the committee today.

I would like to briefly comment upon our enhanced border enforcement package and then turn to Chief Patrol Patrol Agent Alan Eliason, who will in turn talk a little about the actual conditions on the border, after which we'll be glad to answer any questions.

The Commissioner's statement indicated the magnitude of the problem we are facing along the Southern border. It is well known iilegal immigration and border patrol apprehensions have been increasing since the early 1960's. However, beginning in August 1982, apprehensions escalated sharply, breaking all previous records in 1983 and heading for what appears to be another record in 1984. February apprehensions were nearly 100,000 this year, 23 percent over last year.

The problem is not just confined to Mexico. Apprehensions of other than Mexican aliens along the Southern border are up 26 percent through January. Our intelligence officers are reporting an increasing number of new smuggling networks involving Cubans, Chinese, Nicaraguans, and other nationalities. Apprehensions of El Salvadorans are up 64 percent.

The problem of controlling the border is serious. It is for this reason that the Administration has presented you with this request for major increases in immigration enforcement.

In 1981 each border patrol sector and station was asked to prepare a detailed analysis of it's resource needs. These were reviewed at the regional and central office and a resource estimate was prepared. This estimate became the basis for our enhanced border enforcement plan. For the past several years this plan has been refined based upon new input from the sectors, updated intelligence, and additional analysis. Task force operations were carried out at selected locations along the Southern border to test the effectiveness of the proposed resource levels. The results of these efforts determined the resource levels included in the authorization request now before you.

The strategy of the proposal has been carefully thought out. Sixty percent of apprehensions made by the patrol are made on approximately 120 miles of border, primarily in our El Paso, Texas and Chula Vista, California sectors. The aliens choose these locations because they are easily accessible from Mexico, because the terrain is relatively easy to cross, and because they provide easy access to jobs. The focus of the border enforcement plan is to target enough resources and technology in these areas to discourage aliens from crossing. Smaller increases are requested for other areas of the border, both to deal with illegal alien traffic already existing at those locations and to address the "Spillover" traffic anticipated from El Paso and Chula Vista.

New agents will be used primarily to enhance two major functions, line watch and traffic check. Linewatch operations constitute the first line of defense against aliens attempting to enter the United States surreptitiously. This activity, to be effective as a deterrent, must be staffed and equipped at levels which ensure a high probability of contact with all attempted entries.

If aliens can be discouraged from attempting entry at the major crossing points, successful entry will become a more formidable undertaking. It will be more difficult for the alien to reach the jumping off point in Mexico, the terrain will be more difficult to cross, and there will be a longer distance to cover before a populated area can be reached. These factors give the border patrol more time to react, and a better opportunity to use sensors, sign cutting, aerial observation, and other techniques to locate the crosser. Since the aliens will have to travel further to find work, there will be a greater chance of subsequent detection, especially by the use of traffic check operations.

Traffic check strengthens and adds depth to linewatch operations by closing off the major means of rapid travel available to illegal aliens from the border area and is an integral part of our deterrent posture. The primary purpose of this operation is to interdict deportable aliens and smugglers of aliens attempting to travel to the Interior of the United States after evading detection at the border. Also, assistance is rendered to those agencies involved in the enforcement of statutes which relate to the smuggling of contraband including narcotics and dangerous drugs. Traffic check operations must be staffed at a level providing 24 hour, 7 day per week coverage, with lateral support by sensors, signcutting operations, and observation and pursuit capabilities both below and above the actual checkpoints.

Traffic check is our last line of defense in the overall strategy of border containment. It's importance has been recognized by the Supreme Court which has upheld the constitutionality of our checkpoint operations.

Now what have we done to prepare for this enhancement package?

We have increased our intelligence gathering capability and have instituted a new monthly southern border assessment report.

The Service's Air Program has been improved, with helicopter hours up 49 percent over 1982.

Technology has been improved with critical testing of heat sensitive viewing devices with ranges up to three miles.

The procurement program for replacement sensor systems was improved, and this year we will order standardized base stations and computers for all or our southern border sectors.

At El Paso, remotely operated low light television systems are now being tested, and it appears that these systems will give enough early warning of crossings to enable the agents to respond and make a apprehension before the crosser can reach the populated area.

Recruitment and training systems have been improved. INS has obtained delegated authority for making suitability determinations on applicants for border patrol positions, resulting in prompt, careful examinations of applicants suitability for border patrol work.

The oral examination given to all prospective border patrol agents has been revised, and special interview teams have received training in its use. The Border Patrol Academy Training Program has been updated, and its relationship to the actual needs of border patrol agents has been validated.

Planning was initiated several months ago as to how we could hire and train the number of border patrol agents contained in the request while maintaining the present high quality of graduating trainees.

The Federal Law Enforcement Training Center is making plans to conduct 22 border patrol agent classes of 48 trainess each during FY 1985. These classes will accommodate a total of 1,056 trainees, enough to cover normal attrition in addition to the new positions.

Written examinations for prospective border patrol agents have already been administered. Based on the number of applicants, there is no doubt that a sufficient number of qulified recruits will be available.

In summation, I firmly believe that this enhancement package will have a profound effect in reducing the number of illegal aliens attempting entry across our southern border. The assets contained in this request coupled with the dedicated employees we now have will lay the foundations for reestablishing the intergrity of our borders in a manner consistent with the national interest as established by Congress. Mr. Chairman, we are ready. If we give the tools to the field, they in turn will give us the product.

Senator SIMPSON. Mr. Eliason, please.

STATEMENT OF ALAN ELIASON

Mr. ELIASON. Thank you, Mr. Chairman. The message I bring to you this afternoon is that the flow of aliens attempting illegal entry across our borders is increasing. During February, our apprehensions at Chula Vista were up 36 percent, at 43,875. That is a daily average of 1,510 illegal alien arrests. We are stretched, Mr. Chairman, we are stretched to the absolute limit of our ability to deal with this flow of illegal border crossers.

Yet, in the coming 3 months, we enter the period which is traditionally the peak season of illegal alien activity in the Chula Vista sector. This buildup of illegal aliens is of concern to a far wider community than just this subcommittee or the Immigration and Naturalization Service. I recently attended a meeting hosted by San Diego City Councilman Bill Mitchell in response to complaints from a group of citizens in the Carmel Valley area of San Diego. Some 40 of those area residents were at a meeting to protest the threat they feel from the presence of a large number of illegal aliens. Problems cited by that group included residential burglaries, unsanitary living conditions, fire hazard, drunk driving, poaching, and harassment and intimidation of the women of the community.

The attraction for illegal aliens in that particular area is a large tomato growing operation which has begun cultivation in the Carmel Valley. Similar concentrations of illegal aliens and the problems they present exist in many other locations throughout my area of responsibility. The flow of aliens we are encountering brings other problems. One of the most serious is that of border banditry. We are finding increasing numbers of aliens who have been assaulted, robbed, and even raped by bandit gangs, which are composed of illegal aliens who prey on other illegals. These gangs lurk in canyons and brushy areas adjacent to the immediate border. They know the likely routes of travel by illegal aliens, and they attack these aliens as they pass through.

In an effort to reduce this violence, San Diego Chief of Police Kollender and I have committed four officers each to a special task force. Our officers work together, in uniform, in the areas where the bandit activity has been most prevalent. We have already arrested several bandit suspects and plan to continue our operation. Our goal is to reduce border violence.

I commend to you the support we have received from Chief Kollender and the officers of the San Diego Police Department.

The enforcement enhancement requested in our fiscal year 1985 budget is vital if we are to regain control of our borders. Modern technology has made us more effective. I cannot imagine having to respond to today's border problems without access to sophisticated night viewing devices, sensor systems, and helicopters. Those technologies have helped us achieve an unprecedented rate of apprehension per officer, but that is not enough. We must put an officer presence on that border with a goal to reduce the flow of illegal crossings. Illegal aliens do not enjoy being caught. They will not continue to attempt illegal entry if they know they cannot make it.

I am convinced we can begin to turn the situation around. I am convinced that the proposed enforcement enhancement, once in place, will mark the turning point toward establishing the integrity of our borders. And we are not just guessing what this effect will be. We have tested this concept in the Chula Vista sector. A 100-officer detail to Chula Vista in March 1983 really began to show us that this problem could be handled. A month later, the sector was routinely apprehending 2,000 illegal entrants a day. But, more importantly, we saw a shift to the east, with apprehensions up 77 percent in El Centro and 126 percent at Yuma. Smugglers were frustrated. Our informants were telling us that these smugglers could not really recruit their loads anymore. During that detail, we achieved a measure of control on the border.

What we are now asking for are the resources to achieve a permanent control over the whole southern border. Thank you, Mr. Chairman.

Senator SIMPSON. Thank you very much. It is very helpful to have an update like that, and I know of your efforts.

[Material submitted for the record follows:]

PREPARED STATEMENT OF ALAN ELIASON

Mr. Chairman, it is a privilege to appear before the subcommittee this afternoon. We in the field have seen the result of your commitment to effective control of our borders. You and other members of the subcommittee have seen the border first hand.

Meanwhile, the flow of aliens attempting illegal entry is increasing. During February, our apprehensions at Chula Vista were up 26 percent at 43,875. That's a daily average of 1,510 arrests. In the coming three months we enter the period which is traditionally the peak season of illegal alien activity in our sector.

The buildup of illegal aliens is of concern to a far wider community than this subcommittee or the INS. I recently attended a meeting hosted by San Diego City Councilman Bill Mitchell, in response to complaints from a group of citizens in the Carmel Valley Area of San Diego. Some forty of those area residents were at the meeting to protest the threat they feel from the presence of a large number of illegal aliens. Problems cited by that group included residential burglaries, unsanitary living conditions, fire hazards, drunk driving and poaching and harassment and intimidation of the women of the community. The attraction for illegal aliens in that area is a large tomato growing operation which has begun cultivation in the Carmel Valley. Similar concentrations of illegal aliens and the problems they present exist

in many other locations throughout my area of responsibility. Mr. Chairman, I have copies here if the subcommittee would like to read the detailed complaints of those citizens.

The flow of aliens we're encountering, brings other problems. One of the most serious is that of border banditry. We're finding increasing numbers of aliens who have been assaulted, robbed and raped by bandit gangs composed primarily of illegal aliens who prey on other illegals. They lurk in canyons and brushy areas adjacent to the border, and they know the likely routes of travel aliens will take. In an effort to reduce this violence, San Diego Chief of Police Kollender and I have committed four officers each to a special task force. Our officers work together, in uniform, in those areas where bandit activity has been most prevalent. We have arrested several bandit suspects and plan to continue our operation, with a goal of reducing border violence. I commend to you the support we have from Chief Kollender and the officers of the San Diego Police Department.

The enforcement enhancement requested in our fiscal year 1985 budget is vital. Modern technology has made us more effective. I can't imagine having to respond to today's border problems without access to sophisticated night viewing devices, sensor systems and helicopters. Those technologies have helped us achieve unprecedented rates of apprehension per officer, but that's not enough. We must put an officer presence on that border with a goal of reducing the flow of illegal crossings.

Illegal aliens don't enjoy being caught. They won't continue to attempt illegal entry if they know they can't make it. I'm convinced we can begin to turn this situation around. I'm convinced that the proposed enforcement enhancement, once in place, will mark the turning point toward establishing the integrity of our borders.

We're not just guessing at what the effect will be. We have tested the concept of an enhanced enforcement presence in the Chula Vista sector. A 100 officer detail to Chula Vista began on March 13, 1983. By April 20, the sector was routinely apprehending 2,000 illegal entrants a day. More importantly, we saw a shift to the east, with apprehensions up 67 percent at El Centro and 126 percent at Yuma. Smugglers were frustrated and couldn't recruit loads. During that detail, we achieved a measure of control on the border. We're now asking for the resources to maintain that presence.

Thank you.

Senator SIMPSON. I note in your testimony, Commissioner, that this budget has been drafted independent of any kind of immigration reform legislation. Therefore, it does not provide the additional funding which would be required to implement the provisions of the Immigration Reform and Control Act. Could you address that, please, comment upon that?

Mr. NELSON. Yes, Mr. Chairman, that is correct. Of course, as I mentioned earlier, you and others have said that border enforcement increases are necessary as part of overall immigration reform. We recognize that that is needed irrespective of passage of reform legislation. We are pleased that the administration has requested these resources at this time. We do see it as a bit of a downpayment. We would hope, with our moving forward in this area, together with the work you have done here in the Senate, that the House will now pick up the matter and move forward with it. We are all concerned about undue delay. It shows our good faith.

I want to make clear that what we were proposing here is not in lieu of the needed reforms in your legislation. The sanctions, legalization, the other parts are absolutely essential. No one should misunderstand the increases as being in lieu of that.

As I mentioned earlier also, clearly we look forward to the reform legislation and recognize, again particularly in areas like sanctions, that there will be additional resources necessary. We will come forward, in due course, to give you the needed information and recommendations.

Senator SIMPSON. You also mentioned that the budget is independent of the proposed consolidation of the INS and the Customs primary inspections functions. Could you give us a progress report on that consolidation effort, if you will?

Mr. NELSON. Yes, sir, I would be happy to do that. You are again right, that is independent of the budget. We thought it was appropriate to mention it because it is an issue that has a lot of interest in the Congress. We currently are in the process. We sent to you and other interested Senators and Representatives this last week a fairly thorough package that lays out the whole proposed consolidation of the inspections and the control functions. We think that should answer a good number of the questions. Also we have already had briefings with a number of individual Senators and Representatives and the committee staff on all aspects of the dealings with Customs and INS.

I might give a little background beyond that. This issue of consolidation of inspections and also border management has been with us for certainly 40 or 50 years. There have been a multitude of studies and recommendations by the Congress, by the executive branch, by outside groups, all saying something should be done. I am pleased to be here on behalf of the administration saying we have done that.

We spent probably 2 years with OMB, Treasury, Justice, Customs, and INS, in some detailed studies, working groups, debates, looked at a number of options and have come up with this compromise plan that I mentioned that makes sense. It avoids duplication. It gives single-agency responsibility. It is something that both agencies can live with, and fully support. We think it answers a lot of the problems that the Congress has demanded that the administration do something about.

As with many things, the critics come out and raise questions. We made it clear that we do not expect to RIF people. Transfers of personnel will be accomplished in a good solid manner. There will be a minimum of displacement. We are briefing the Congress. We are briefing the unions. We are disseminating the information to all employees. We hope the Congress will thoroughly look at this, and we are satisfied that, when they do, this proposal will make sense.

Let me give you a couple of the numbers. The total number of inspectors to be transferred from Customs to INS for the primary inspections of the land border would be 622. The transfer from INS to Customs for airports and seaport primary inspections would be 505, leaving a net increase of inspectors to INS of 117. In addition, 165 Customs patrol positions are coming to INS to accomplish that border management aspect that I mentioned, which would mean a net increase in staff under the consolidation proposal to INS of 282 positions. Mr. Carmichael and other staff have, I think, done an outstanding job in conjunction with counterparts at Customs and OMB. We are confident that this is a good program.

We look forward to prompt consultations and resolutions of this matter.

Senator SIMPSON. With this increased emphasis on border enforcement obviously planned and presented in this budget and hearing about the increase of illegal entries, how much greater

border control will we obtain with the increased border patrol funding and staffing?

Mr. NELSON. I think all of us have commented on that in our testimony. As pointed out, the number of apprehensions has grown dramatically. Certainly the apprehensions per officers have dramatically grown. I give a lot of credit to our people out in the field for their productivity, their expertness, and their dedication, in addition to the equipment that Chief Eliason mentioned. That combination worked well. So, the apprehensions are up.

Certainly the flow is increasing. There is no question that the number of people coming are greater. So, there is need. If we do not do it, we will really be overrun. We must stem the flow. By the additional manpower proposed, we would expect a continued increase in apprehensions until at some point—and we cannot really predict when that will occur. Obviously, the people have to be on the border. The people coming across have to understand that the deterrent is effective. The end result, we would hope a year or so downstream, is that the numbers will start dropping as the illegalities realize, as the chief pointed out, that they are just not going to make it. That is certainly our goal.

Senator SIMPSON. You and I both talked about the issue of service with regard to the INS, the Immigration and Naturalization Service. That is a concern that we both share. Will public services be affected by these cuts in management and services that are recommended by the Grace Commission?

Mr. NELSON. No, Mr. Chairman. We do not think so. We certainly share the interest in the service. As the testimony indicated, we have done a lot. We have a lot under way. We are confident that we can do a continued excellent job, an even better job with our increased data processing capability and these new programs.

The 150 cuts that flow from the Grace Commission actually flow earlier from some of our own studies and our reorganization plan that we instituted a couple of years ago. We feel we can streamline both in central office management and in regional office management. This is where the larger aspect of these 150 cuts are. We do not see these as really impacting the service. There are some other areas of efficiencies where we will pick up some of these positions.

The answer to your question is that we think these cuts are proper. We think we can handle them appropriately. We do not see these cuts having any negative impact on our service.

Senator SIMPSON. Looking at this chart on priority rankings, the base program and then the program increase stand out as the most interesting. Those do not always match there. I particularly note the adjudications and naturalization ranking of three in program. I am very pleased to see that. This naturalization backlog has been very troubling to me. I have kicked that around a time or two. I note that it is now in an excess of 240,000.

How did it reach that proportion? What is being done to address that? When can we see progress in eliminating that backlog?

You can refer that to whoever you wish among your personnel. That is something that has become of great interest to me. Some of my colleagues have come to me and said: You know, I have so many persons in my State who are waiting to be naturalized, whether they are waiting to have that done in Yankee Stadium or

the Orange Bowl, or wherever it is. The point is that they are there and they are ready. What is being done to take care of these people, who have done a very critically important thing? That is, they sought our citizenship and met all the tests.

Mr. NELSON. I will ask Ms. Meissner to address that.

STATEMENT OF DORIS M. MEISSNER

Ms. MEISSNER. You are correct in saying that we have made a priority item out of the naturalization caseload this year, because we agree with you. That caseload has been too backlogged for too long a time. What we are implementing in the adjudications area is what we are referring to as a balanced adjudication system, which is a very simple matter of dividing our caseload into the cases that require interviews and the cases that do not require interviews in order to adjudicate.

The naturalization cases are cases that require interviews. We are reserving for our district offices the cases that require interviews and taking all of the other cases and sending them out to remote adjudication centers, where we can handle them without seeing the people, in a faster, higher productivity method.

By taking the cases that do not require interviews out of the district offices and doing them in remote centers, we are able to concentrate on the naturalization caseload and the asylum caseload, which are two areas that have really been behind in terms of our handling them.

The result of that in the naturalization area will be that we are presently running about a 10-month average in taking care of naturalization cases. By the end of this fiscal year, that will be cut in half. So, by the end of this fiscal year, we should have a pending of about 5, 5½ months on the naturalization case. And the following year, we hope to get down to a 4-month pending time for a naturalization case, which is what we believe to be a timely period in which to adjudicate naturalization.

Senator SIMPSON. Good; I am anxious to see that kind of progress there. Those are very special groups of soon-to-be citizens. I think that is important. They get disappointed and they do not understand why that is. That can be brought to their attention. Sharing that with them is just as important as, I think, doing something so that they know about that.

Do you have a method to inform them as to the causes of the delay other than to blame Congress?

Ms. MEISSNER. The assumption is that it is reasonable to take about 4 months to handle a case like that. In another year, we expect to be there and maintaining that rate.

Senator SIMPSON. And they are advised of those things?

Ms. MEISSNER. And they will be so advised, that is right.

Senator SIMPSON. OK.

[Material submitted for the record follows:]

PREPARED STATEMENT OF DORIS M. MEISSNER

Mr. Chairman, and Members of the Subcommittee, I am pleased to have the opportunity to comment on H.R. 4447, which you are considering today. The Department of State has already testified as to the circumstances in El Salvador, and I will confine my remarks to sections 2 and 3 of the bill.

This bill would establish extraordinary and unique procedures for handling nationals of El Salvador in the United States without regard to their reasons for and manners of entry into the United States, and contrast to existing law and policy which are intended to treat aliens of all nationalities in a similar fashion. Congress passed the Refugee Act of 1980 to supplant the piecemeal and nation-specific legislation and parole programs under which refugees had been admitted to the United States. The stated objective of the Refugee Act was "to provide a pertinent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States . . ." It set up a system under which any person—regardless of origin—can apply for and receive individual consideration of the merits of his or her claim to asylum or refugee status.

However, H.R. 4447 proposes to circumvent this system set up by the Refugee Act only three years ago and return to the ad hoc and discriminatory approach of the past. Section 3 of this bill would prohibit the Attorney General from detaining or deporting virtually all nationals of El Salvador who are present in or who enter the United States during the next three years. In essence, it would create a class of virtually every Salvadoran who can manage to enter the United States and regardless of whether the individual has a legitimate claim of persecution, would provide an indefinite safe haven here in the United States. The bill specifically states that Congress may extend this period after considering the Presidential report called for under section 1 of the bill. This raises the prospect of a stream of Salvadorans illicitly entering the United States under the effective sanction of this legislation. In effect, Congress would be encouraging Salvadorans to enter the United States in any manner possible to take advantage of the provisions of this bill.

Problems are not unique to El Salvador, which is why the 96th Congress concluded that the case-by-case approach of the Refugee Act is a fairer system than the nation-specific approach it abandoned. In any case, there is no reason to lack confidence in the Attorney General's decisions on asylum applications. No credible evidence has been presented that any Salvadoran or other national deserving of asylum has been deported from the United States. Denials of asylum can be processed through several levels of administrative courts and are appealable to the federal courts.

Finally, H.R. 4447 provides for an astonishing and apparently absolute prohibition on the detention of all deportable Salvadorans. Because of judicial interpretations of the term "detain", which as you know, can mean anything from "stop and question" to physical custody, the provisions of this section could prevent the Immigration Service from taking an individual into custody in order to verify status or nationality or even persisting in questioning an individual who claimed to be a deportable Salvadoran. In practical terms, this would mean that any person claiming to be from El Salvador would be immune from the operation of the immigration laws. At a time when Congress is pressing for better enforcement this type of provision hampers effective INS operations.

In conclusion, the Department of Justice and the Administration oppose the fundamental premise of H.R. 4447 which would make an exception for Salvadorans to the orderly procedures called for by the Refugee Act to determine whether or not an individual has suffered persecution or would be subject to persecution in his or her homeland. The Attorney General has concluded upon consultation with the Secretary of State that a blanket grant of extended voluntary departure for Salvadorans would not be in the interests of the United States. Attached hereto and made part of this testimony are letters signed by the Attorney General dated July 19, 1983, and by the Secretary of State dated June 23, 1983. The comments and conclusions therein remain in effect currently.

Passage of H.R. 4447 would clearly result in thousands more Salvadorans being added to the floodtide of illegal migrants who are coming to this country outside the legal channels established under the Immigration and Nationality Act. Note that many estimate that up to ½ million Salvadorans are already in the United States illegally. Based on available 1982 information, this constitutes approximately 10% of the entire population of El Salvador. The Refugee Act provides a system within which to accommodate refugees from all lands. Salvadoran nationals who fear individual persecution may file for and secure asylum in the United States along with persons from all other countries. The nation-specific approach of H.R. 4447 has been and should continue to be rejected by Congress.

This completes my prepared testimony. I would be glad to respond to any questions you may have.

Senator SIMPSON. I did have an inquiry that I was going to make toward Mr. Brandemuehl and Mr. Kisor. I will go forward with

that, if you want to, and then I will recognize you when it is convenient. Are you ready to do so now?

Senator KENNEDY. Whatever——

Senator SIMPSON. Go ahead if you have some questions. Here is the entire group. You have the agenda there. We should have a full reservoir of information on any questions you would like to ask.

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Senator KENNEDY. Thank you very much, Mr. Chairman. I appreciate your courtesy. I will not interrupt your line of questioning for long.

I thank the members of the Immigration Service for joining us here this afternoon. I regret that attendance at other committees kept me away from hearing your earlier presentation. I just have a few areas that I would like to touch on briefly. One of them is an area of public policy that I have long been concerned with. The chairman is aware of it.

And that is the question of granting extended voluntary departure to Salvadorans. This has been an issue which I first raised in 1981. I will not review the history that I have had with both the State Department and other agencies on the question. I am just wondering what you might be able to tell us, Mr. Nelson, about what information you have available to you on the fate of Salvadorans being returned from the United States. I have been following this issue over a period of time. I recognize that information is difficult to obtain. I have seen on, I think, NBC, the documentary which was enormously alarming. I have watched how the Immigration Service has in the past, with regard to Poland-Lebanon—with regard to Uganda, for example—has been willing to provide extended voluntary departure when there were particularly troublesome situations in both of those countries. Tragically, Lebanon continues.

In a time of violence, certainly even in Lebanon and in Poland, there were steps taken where the violence was not nearly as intense as it has been in El Salvador. I am just wondering what you can tell us now about your assessment of the kind of danger that these individuals are facing if they are required to return to El Salvador under current conditions.

Mr. NELSON. Senator Kennedy, I am pleased to respond to that. I know that has been an area of great interest to you, and it has been to the administration. We have looked at it, we meaning the Justice Department and the State Department and others, at great length. There was a hearing scheduled last week in the House. It was postponed. We were prepared to testify at that point. I would be happy to provide a copy to this committee of that, even though it has not taken place yet.

Senator KENNEDY. If you make that available, I would be grateful.

Mr. NELSON. Yes, sir, we would be pleased to do that, to the subcommittee.

There were two letters, one of July 19, 1983, from Attorney General William French Smith to the House of Representatives, in re-

sponse to a letter from a number of Congressmen. Then a similar letter from Secretary of State George Shultz was sent to the Attorney General and was transmitted to the House. I believe, Senator Kennedy, while these are nearly a year old, they do set forth the administration's policy on extended voluntary departure for the Salvadorans.

[Material submitted for the record follows:]

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, July 19, 1983.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR CONGRESSMAN: This is in response to your letter of April 28, 1983, concerning El Salvador and requesting that Salvadoran nationals be provided temporary sanctuary in the United States. The delay in this response has been due to our taking a close look at the situation. I share your concern about the disturbances in areas of El Salvador, and the unfortunate plight of the Salvadoran nationals who have been displaced from their homeland. However, after careful consideration and review, I have concluded that the present circumstances do not warrant a granting of "extended voluntary depparture" to El Salvadorans presently in the United States illegally.

As your letter points out, there have been occasions when the Attorney General, in consultation with the Secretary of State, has determined to delay temporarily expulsion of aliens of particular nationalities. Although somewhat of a misnomer, this form of discretionary relief from enforcement of our immigration laws most often has been referred to as "extended voluntary departure." Because of the serious foreign and domestic policy ramifications of withholding the expulsion of illegal aliens on nationality-based classifications, grants of such relief have been rare and limited to those cases where, in the judgment of the senior Executive Branch officials responsible for such policy, the best interests of the United States are served by such extraordinary measures.

It is true, as you further point out, that "extended voluntary departure" has been granted to nationals of Ethiopia, Nicaragua, Poland, and Uganda, at times then such countries were experiencing significant civil disturbances. It is inaccurate, however, to assume that there exists any specific criterion or criteria, such as the occurrence of violence or political instability, by which grants of "extended voluntary departure" are determined. As reflected in our immigration laws, it is an unfortunate reality that our country cannot provide sanctuary to all foreign nationals whose homelands are experiencing political or economic misfortune. The decisions made as to "extended voluntary departure" are reached on a situation by situation basis and are not readily susceptible to comparison or generalization. Each determination is based on examination of a variety of factors unique to each country's situation.

Because of our shared concern regarding the citizens of El Salvador, I requested new and additional advice of the Secretary of State on this matter. By recent letter, Secretary Shultz has responded that in his judgment our present U.S. efforts to assist the Salvadoran people constitute the most constructive course of action in light of our foreign policy interests, and that the Department of State does not recommend that "extended voluntary departure" be granted to Salvadoran nationals in the United States.

In addition to the counsel provided by Secretary Shultz, I have carefully considered a number of other factors. As you know, it is estimated that there are hundreds of thousands of Illegal Salvadoran aliens already in the United States. This is but one facet of the current crisis in which our country is experiencing a floodtide of illegal immigrants. A grant of "extended voluntary departure" to Salvadorans undoubtedly would encourage the migration of many more such aliens. Because of the present and potential political and economic instability in other countries in close

geographic proximity to the United States, any grants of conditional immigration benefits must be considered in light of its potential inducement to further influxes of illegal immigrants. Our recent experiences with the mass migrations of Cuban and Haitian nationals to the United States have underscored the need for proper concern in such matters for the finite capacity of our country's law enforcement and social support systems. It is also clear that, notwithstanding our improving economy, the continuing problems of unemployment and budget deficits can only be exacerbated by any action which would increase substantially the number of people competing for employment and social services.

I have also considered the fact that there are adquate alternatives by which the Salvadoran nationals may seek relief. For example, as you know, our immigration laws provide various specific procedures whereby aliens may lawfully secure the right to enter and remain in the United States, including application for asylum where there is a properly demonstrated claim of fear of individual persecution in the alien's homeland. This is not to suggest that grants of "extended voluntary departure" and asylum are based upon the same considerations and criteria; however, I do view it as significant that the provisions of the Immgration and Nationality Act contain numerous forms of relief for which aliens may apply to remain in the United States. Both the number of Salvadoran aliens and past experience suggest the possibility that many such aliens may seek to remain in the United States for economic improvement as well as the fact that many such aliens passed through countries which would afford sanctuary were that the sole objective of the migrants. Thus, I believe it appropriate to address the Salvadorans' request for relief on an individual basis, as is the normal course under our immigration laws.

Finally, as you know, the Department of State has made periodic reports on the conditions in El Salvador and has concluded that, while serious problems remain, the risk to the general citizenry from civil disturbance is not prevalent throughout the country and, in some areas, the risk has diminished.

Although it is my judgment under the present circumstances not to institute a discretionary grant of relief from enforcement of our immigration laws to all Salvadoran nationals now in the United States, I have attempted to convey the serious attention that has been given to the matters raised in your letter. Please be assured that we shall continue to monitor the situation carefully, and will make every effort to ensure the fair and humane administration of our immigration laws and policies with respect to the many Salvadoran and other aliens now in our country.

Sincerely,

WILLIAM FRENCH SMITH,
Attorney General.

THE SECRETARY OF STATE,
Washington, DC, June 23, 1983.

Hon. WILLIAM FRENCH SMITH,
Attorney General,
Washington, DC.

DEAR BILL: This is in response to your letter of June 13, 1983 concerning extended voluntary departure (EVD) for Salvadoran nationals in the United States. I, too, have received a letter from 89 members of the House of Representatives recommending that EVD status be granted to Salvadoran nationals in the United States, and I am aware of the sense of the Congress resolution and the pending litigation to which you refer.

The letter from the Congressmen and the litigation you have cited compare the level of civil disturbance and strife in El Salvador to those in other countries at times during which the Department of State recommended that EVD be granted for the nationals of those countries. However, such considerations in this or past cases can not be so readily generalized for comparative purposes. For example, it should be noted that civil strife is not prevalent throughout all regions of El Salvador. In any event, the extent of civil unrest alone does not determine the Department's view toward the granting of EVD to nationals of a particular country. The Depart-

ment invariably considers a number of factors in deciding whether to recommend the granting of EVD in any particular case, and the granting of EVD may meet different objectives in different cases. Moreover, a recommendation to grant EVD in a particular case is but one of a number of possible responses that the Department may consider useful and appropriate.

The Department shares the humanitarian concerns of the 89 Congressmen and others about the continued civil strife in El Salvador. As you know, the Administration has taken a number of steps to help the Salvadoran people in their efforts to establish a democratic society in which the rights of all are recognized and protected. These include: bilateral and regional efforts (in which you personally have participated) to foster legal reform in El Salvador and several other nations in Central America; U.S. support of human rights initiatives, including creation of the Human Rights and Peace Commissions, and the recent amnesty; the medical assistance recently dispatched to El Salvador; and support of agrarian and other economic reforms. Through our efforts and those of others like the International Committee of the Red Cross, progress has been made in the taking and treatment of prisoners and the visitation of those detained, while, over the long term, violence outside of combat has been reduced. The Department believes that such measures, coupled with U.S. assistance and training programs in El Salvador, constitute a concerted political and humanitarian response to the situation in El Salvador, and that our present course of action is the most constructive in light of U.S. foreign policy interests with respect to El Salvador and other countries in the region.

In addition, based on past experience, the Department has concluded that a grant of EVD is, if not a magnet, at least an inducement to members of the beneficiary nationality to seek to enter the United States by any means, since they can avoid deportation. While, as you know, accurate statistics concerning illegal migration generally are not available, it is our best estimate that the 1979 grant of EVD to Nicaraguans was followed by a significant increase in illegal Nicaraguan entry into the United States. This phenomenon is, of course, facilitated by the proximity of Central America to the United States and the relative ease of travel to the U.S. from that area. We have examined this factor in light of our general understanding that for some years now Salvadorans have been migrating illegally to the United States, and in light of this Administration's strong commitment to deter illegal migration to the United States.

Because of the foregoing, the Department of State does not recommend at this time a grant of EVD to Salvadoran nationals in the United States. Please let me know if you require any further information.

Sincerely,

GEORGE P. SHULTZ.

Mr. NELSON. I can say from our experience and information—and I know Mr. Tinker of your staff and Mr. Day of Senator Simpson's staff took a trip there recently and you are aware of their report. We have had no information provided, or are aware of any problems whatsoever of people being returned from the United States to El Salvador, whether they voluntarily departed, or whether they were formally deported. We have had no indication of any problems. And we have asked interest groups, lawyers, and others who have made these allegations as to whether these people are being deported to their death. Interestingly, these groups have not been able to provide this information, even in court testimony.

On the other side, there has been a degree of monitoring by the U.S. Government. A representative of the State Department testified in a Federal court trial in Brownsville, TX, a number of months ago to his survey of a number of returnees. His findings were that, based on personal interviews and other information, there was no evidence of any harm as to those being returned.

We are continuing currently, and give credit to your staff and to Mr. Day for their efforts to encourage it. I have been working with Elliott Abrams, the State Department and others. We are continuing the monitoring of a sample of those being returned.

We welcome any information. We do not have any information to date of any problems. We believe that is the case. Obviously, there are circumstances in El Salvador that are not the most pleasant, but there is no indication that anybody, because of their being sent back, has found problems.

I think, as you know, also, Senator, that we estimate probably half a million El Salvadorans are in the United States illegally, many of whom have been here for many, many years, long preceding any serious violence in that country. There is no indication that many of those will be returning or intend to return. There is a very serious concern that, if you extended voluntary departure to a group like the Salvadorans, that it would not only encourage all those here to stay but would in fact be a great magnet for many others to come.

As Chief Eliason, at the end of the table, the chief at the Chula Vista Border Patrol Sector, our largest, has indicated in his testimony a moment ago, we are seeing a substantial increase now in other than Mexicans, and particularly Salvadorans. So, they are already coming. We think it would be—the criteria for extended voluntary departure, it is a discretionary program, not statutory. It is based not only on humanitarian concerns, but it is based on foreign policy concerns. Certainly in our business, we must consider the immigration concerns.

I think there are great differences between somebody from El Salvador or Central America as opposed to countries in other parts of the world where you just do not have the flows. We could see literally hundreds of thousands, if not millions, coming in, should we grant extended voluntary departure. We, therefore, feel that, as a policy matter, it is just not justified either on the merits or on the policy.

Senator KENNEDY. Well, you are not talking about millions. What is the population of El Salvador?

Mr. NELSON. Well, my understanding is that it is around 6 million or so.

Senator KENNEDY. Then it's the whole country coming in here.

I am very much aware of the fact of the buildup in terms of illegal aliens coming to this country. It seems to me that they are coming not only from El Salvador but wherever there is conflict in Central America. They are also coming as well because of economic conditions which exist also in Mexico. Those numbers have increased dramatically.

Precisely what kind of monitoring system have you had in place to review what happens to these individuals that are returning to El Salvador?

Mr. NELSON. The individual of the State Department who was there and did do personal interviews and went out to homes——

Senator KENNEDY. Who is this?

Mr. NELSON. This individual's name is——

Senator KENNEDY. Is this a study? Or is this just one individual member of the Department, or what?

Mr. NELSON. He is a member of the Department of State named Greentree. Todd, I believe, is his first name. He is an officer of the State Department and was in the Embassy in El Salvador for a

number of months, and so testified at a recent Federal court hearing, as I mentioned.

Senator KENNEDY. Did he conduct the study? Is this sort of ad hoc information that he gained as a result of——

Mr. NELSON. My understanding is that he did personally conduct the study.

Senator KENNEDY. He conducted a study?

Mr. NELSON. Yes.

Senator KENNEDY. Is that study available?

Mr. NELSON. That I do not know. The testimony is certainly available.

Senator KENNEDY. Would there be any reason why we could not have the study?

Mr. NELSON. I would have no reason. I think, since that was State Department, I would have to let them answer that question.

Senator KENNEDY. Could we request the study, Mr. Chairman?

Senator SIMPSON. If there is such a study, we will certainly request it.

Mr. NELSON. The word study might be somewhat misleading. He did a survey—that might be a better word—of people having returned.

Senator KENNEDY. Well, you have confidence in the work he has done, quite clearly, because you are making Government policy based upon it. So, it seems to me that it would be of some value to have the document from which this policy is being made. I appreciate your willingness to share that document.

Mr. NELSON. We certainly will provide the testimony, as a matter of public record, from the Federal court trial. As I say, we will have to look into the availability of other information.

[Subsequent to the hearing, the following material was submitted for the record:]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
SOUTHERN DIVISION

NOE CASTILLO-NUNEZ, ET AL., . Docket No. B-81-311
. .
Plaintiffs, . Brownsville, Texas
. October 26, 1983
v. .
. .
HAL BOLDIN, ET AL., .
. .
Defendants. .
. .
. . . . . .

TRANSCRIPT OF TRIAL
TESTIMONY OF TODD GREENTREE
BEFORE THE HON. RICARDO H. HINOJOSA

APPEARANCES:

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PROCEEDINGS

10:55 a.m.

THE COURT: Mr. Hausman, are you ready to call your next witness?

MR. HAUSMAN: Yes, Your Honor, Mr. Todd Greentree.

TODD GREENTREE, DEFENDANTS' WITNESS, SWORN

DIRECT EXAMINATION

BY MR. HAUSMAN:

Q What is your full name, Mr. Greentree?

A Todd Richard Greentree.

Q Where are you employed?

A U. S. Department of State.

Q What is your present position?

A I am Assistant to Ambassador Richard Stone, Special Envoy to Central America.

Q How long have you held that position?

A About three months.

Q What did you do prior to that?

A I was a political officer in the U. S. Embassy in San Salvador.

Q How long did you serve with the embassy in San Salvador?

A Two and half years.

Q Where did you attend college, Mr. Greentree?

A University of California, and I took a Masters at Johns Hopkins School of International Studies in Washington.

THE COURT: Did you have another job prior to San Salvador, Mr. Greentree?

THE WITNESS: I worked on the Hill, worked several jobs in Washington.

THE COURT: Where did you work there?

THE WITNESS: Office of Senator Kennedy. I worked on the Overseas Development Council, a nonprofit organization.

THE COURT: And then you joined the foreign service, is that right?

THE WITNESS: That's right.

THE COURT: Go ahead.

BY MR. HAUSMAN:

Q What is your undergraduate degree in, Mr. Greentree?

A Anthropology and psychology.

Q What's your graduate work in?

A International relations.

Q As part of your graduate work, did you study outside of the United States?

A No, I didn't study outside. I did field work in between the University of California and Johns Hopkins.

Q Where did you do that field work?
A Southern Mexico, a town called San Juan Chamula.
Q What kind of activities did you engage in?
A Anthropology projects on modernization. I was going to attend Harvard anthropology school and decided not to.
THE COURT: What a mistake. I'm kidding.
BY MR. HAUSMAN:
Q Did you engage in any field work or study in any other countries besides Mexico?
A Yes, in Guatemala I was part of an archeological expedition in '76. The earthquake took place, and I did relief work for about three months.
Q How long did you remain in Guatemala?
A A total of about five months.
Q What part of the country were you in?
A I worked in a village called Santo Domingo Xenacoj, which is near Guatemala City, about three hours.
THE COURT: Mr. Greentree, that was in the summer of when?
THE WITNESS: In the spring of '76.
BY MR. HAUSMAN:
Q When did you join the State Department?
A 1980.
Q What position did you fill when you first joined the State Department?

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A I was an Intern in Central American Affairs, the Bureau of Latin American Affairs.

Q Did you receive any training when you joined the State Department?

A They have an incoming class that lasted about six weeks, basically an introduction to U. S. government.

Q What was your first overseas assignment?

A San Salvador.

Q What duties were you assigned to when you first arrived in San Salvador?

A I worked in the Consular's section for about six months before being transferred to the economics section, and then I finally worked in the political section.

Q During the period of time you were assigned to the embassy in San Salvador, did you participate in any activity with respect to identifying or locating Salvadorians at the request of any officials in the United States?

A Yes, I did.

Q Would you describe those activities, please.

A Primarily two at that time were related to human rights violation areas. They would consist -- the work would consist of, for example, receiving a Congressional inquiry by cable regarding the arrest or disappearance of an individual. We would then attempt to locate them

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and find out what happened to them.

The other type of work was involved with the return of deportees to El Salvador, and on several occasions we would attempt to get lists of people who had been deported and then locate them if possible.

Q Do you know if the embassy in San Salvador regularly engaged in efforts to determine whether or not Salvadorian citizens who were returned from the United States were subjected to persecution?

A I wouldn't say regularly in the sense that there was a requirement of doing it every quater. But I think the time I was there we did about three -- I wouldn't call them full-scale investigations, but inquiries into that, yes.

Q What were the results of those inquiries?

A The one that I participated in fully -- we received a list, I believe, of 175 deportees from the Southern California District, assigned two Salvadorian nationals to work with the Immigration Department to attempt to locate names, full names and addresses and that sort of thing.

And then once we had those, we went out and talked with family members or with the individuals themselves. We had a list, like I said, of 175, and I think we located 50 or 60 of those people.

Q Did you reach any conclusions based upon that investigation?

A Regarding persecution?

Q Yes.

A Yes, we did, and I think they are upheld by subsequent investigations, which is that there is no systematic persecution, that it falls outside of the logic of the situation in El Salvador, that there is no reason why one group or another would be interested in people.

In fact, basically the knowledge that people have been deported stops with the airline company upon their arrival in El Salvador, that there is no official -- in terms of the Salvadorian government, official knowledge that people have been deported or not.

Q Do you know if the Salvadorian government has the capacity to identify individuals who are returned through the airport and then to track their movements through the country?

A It probably has the capacity if it wanted to dedicate most of its intelligence resources to that. It would be a huge job.

What we found is that, not only do they not dedicate those resources, but tnat is a very low priority item.

There are individuals they are constantly on

the lookout for, and those individuals -- the list of names, or whatever, are generated strictly by intelligence activities or crimes that have been committed and this sort of thing, not by receipt of lists of names of deportees.

Q During the period of time that you were in El Salvador, did you travel through the countryside?

A Yes.

Q Were there any particular parts of the country you traveled in more extensively than others?

A No, I tried to cover the country fully, become familiar with it. It's a small country, so it's not hard to physically get from one part to the other, except for combat of course.

THE COURT: You were there until this summer?

THE WITNESS: In June, yes.

BY MR. HAUSMAN:

Q Did you observe conditions of violence in El Salvador?

A Yes, I did.

Q Was all of that violence associated with the civil strife taking place there?

A No, the civil strife is a context, but there is a tremendous amount of violence in El Salvador that is not related to combat activities or to what are commonly

known as death squads, which are basically intelligence activities on the identification of people who are subversives. Personal vendettas and this sort of thing is widespread.

Q Does El Salvador have a criminal justice system in the form that Americans would recognize?

A Yes, it does. There are differences, of course, but it does have a system.

Q Does that system work today?

A The criminal justice system works marginally.

Q Have you observed -- during the course of the two and a half years you were in El Salvador, did you note any changes in the way in which the criminal justice system was operating?

A Well, I would say toward the end of the 1970's, the situation of violence, specifically threats against people involved with the legal process, were such that prosecution of violent crimes became very difficult, especially when they involved people associated with the government high authorities and this sort of thing.

Threats from both sides led to what is generally called a breakdown of the system.

In the current context, say the last year and a half, I think that there is going to be more willingness on the part of the government to prosecute. A lot

of that depends on the simple matter of dedicating security to the court system, physical security to protect judges, witnesses, and this sort of thing, and the current government has a legal reform program which is looking at statutes and procedures and this sort of thing.

Q In the course of your travels throughout El Salvador, did you reach any conclusions about how widespread the violence is? For example, does military related violence occur in all provinces throughout the country?

A No, not at all. In fact, it's pretty predictable. When you cross a bridge or turn right on a road or left, you have entered conflicted territory. Of course, violence can happen sporadically or randomly anywhere. But going east of San Salvador is much more dangerous, and you can travel fairly freely west of San Salvador.

There are areas which would be called liberated territory in the sense that guerilla forces maintain command control of vehicular and personal traffic in those areas, and military can only enter in force.

There are areas in which guerillas operate more or less at will, depending on the presence of the armed forces, setting up ambushes and this sort of thing.

So it varies, but I would say, in general, to the east of San Salvador you have got combat, guerilla

warfare type, and to the west of San Salvador it's fairly calm.

Q During the course of the two and a half years you were stationed in San Salvador, did the pattern of violence by geography change at all?

A Yes. More than by geography, I would say the entire nature of the conflict changed. What happened basically was leftist forces had intended to spark an insurrection, a popular insurrection, a breakdown of society in which the army would fall apart, upper classes would, of course, depart the country, and middle classes would identify themselves with the revolutionary force. In other words, the Nicaraguan model.

It failed, and I think by mid-1981 the guerilla forces had realized thatthey did not have the popular support necessary to mount an insurrection and reverted consciously to a prolonged warfare strategy, which was primarily using isolated rural bases to launch attacks on military targets and to target the economic infrastructure of the country, bringing the country to its knees, literally, through damage and destruction.

Q Mr. Greentree, in the course of performing your duties, did you have occasion to come into contact with ordinary Salvadorian citizens?

A Yes, I did.

Q Did you speak with citizens?

A Yes.

Q Did you read newspapers in El Salvador?

A Yes.

Q Do you still read newspapers from El Salvador?

A On occasion, sure.

Q Did you watch television while you were in El Salvador?

A Yes.

Q How would you describe the familiarity with the United States that ordinary Salvadorian citizens have?

A Most Salvadorian citizens are very aware of the United States. The degree of sophistication, of course, depends upon their place in the social stratum, their education, their political sophistication.

Salvadorians from the upper classes who have college educations have almost exclusively gone to universities in the United States.

Campesinos from the isolated rural zones, who may have never traveled even to the capital city, are aware of the United States in a much different way, in the sense that the culture of the United States pervades all areas, everything from, like you mentioned, TV shows to brand names and this sort of thing.

Most people, even in rural areas, have relatives

in the United States. They receive word. There is a constant flow of communication.

In sum, you could say that El Salvador, even though it's a Central American nation, is culturally oriented to the United States.

Q Have you ever read articles that have been published in Salvadorian newspapers that report events in the lives of Salvadorian citizens living in the United States?

A Sure. There is even a column in one of the papers called Noticias de San Francisco, news from San Francisco.

Q Do you know if there is any perception among ordinary Salvadorians in that country concerning violence that may be used by U. S. law enforcement agencies, either general police forces or particularly the Border Patrol, inflicted upon Salvadorians who are traveling to the United States?

A No, not so much. In the culture of the whole, "Go to the United States, leave El Salvador," there is a wnole lexicon of knowledge dealing with how to make the trip and what to do and this sort of thing.

I think the biggest element of fear on the part of El Salvadorians who are initiating their trip is the Mexicans, the Mexican authorities. There is a traditional tension between Mexico and El Salvador. Even at personal levels they tend not to like each other, and

the idea that if you are caught by the Mexicans you have really lost it is pretty widespread, not so much to the United States.

Q Is there generally a free flow of information back and forth between El Salvador and the United States?

A Oh, yes, sure.

Q Let me ask you, concerning the investigation that you personally participated in as to the fate, if you will, or the subsequent events following deportation of the Salvadorian citizens who were deported from the United States, did you come to any specific findings as to individuals that you sought out to find out what had happened to them, individuals that had been located?

A Yes.

Q Did you find that any of them were not in good health or had been killed?

A I believe, not in the one that I worked on, but the following year we located a couple of individuals who had indeed been killed, and it was a personal crime of passion situation as far as we could determine.

What we found is that most people had gone back to living their lives much as they had before, and some of them indicated that they intended to try to return to the United States.

Q Did you formulate any opinion when you were working

in the Consular's section concerning the knowledge that Salvadorian applicants for visas had concerning U. S. immigration laws?

A Well, visa applicants -- of course, there is a whole racket involved in applying for a visa. The consular officer at the visa window, his main job is to determine whether or not the person is lying when he says he is going to the United States for a temporary visa, and there are a lot of indicators of that.

Salvadorians have come with all degrees of sophistication, of stories and this sort of thing, and it's very difficult to determine.

There are people, of course, in El Salvador who, for a fee, will fill out your application, fabricate documents and coach you on how to apply for your visa. You pay 50 percent up front and this sort of thing, and if you get the visa you pay the other 50 percent; and if you don't, that's it. That sort of thing does go on.

Q Are you familiar with ads that are placed in the Salvadorian newspapers for trips to the United States?

A Yes.

Q During the period of time you were with the embassy, were you aware of any investigations that were conducted into some of those advertisements?

A Yes. There is not a full-time fraud officer like

there are in some of the other consular sections. But those ads run daily. There is always a group of people, a small group of people among Salvadorians, who engage in that sort of thing.

At the time I was there, one person had his right -- travel agent had his right to recommend to send passports with visa applications over rescinded because he was using it to facilitate the entry of illegal immigrants.

Q While you were in El Salvador, did you interview Salvadorians who had been to the United States and returned?

A Yes.

Q And did they give you any reasons -- set forth the reasons why they had come to the United States?

A Yes.

Q Can you tell us, what are the reasons that were told to you of Salvadorians coming to the United States?

A Overwhelmingly to get a job. I would say that on occasion I made contact with individuals who, from either side of the conflict, felt they had to get out of El Salvador because their lives were in danger. And on occasion I helped those people leave El Salvador and get into the United States for those reasons.

But like I mentioned before, there is an entire

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culture, if you will, oriented toward the United States, and there are groups of people in almost every village whose dream it is, if you will, to go to the United States. Many villages have someone with an individual in every family up there.

THE COURT: Mr. Greentree, about what percentage of this was job related of the individuals you talked to?

THE WITNESS: That they were going to the United States?

THE COURT: Right, or the ones you have talked to that had come to the United States when you said the great majority of them or substantial portion of them was to get a job. About what percentage of that was that?

THE WITNESS: Probably 90 percent of the people.

THE COURT: About how many people do you think you talked to, that you have talked to?

THE WITNESS: At least several hundred in the course of my work. Of course, as a political officer, it was part of my job to talk to people involved in politics. So it was natural I would come into contact with people who were sophisticated and, for example, who had been threatened and had to get out of the country. So that may be disproportionate in that sense.

THE COURT: You mean the ten percent you would

have talked to that wanted to come for political reasons?

THE WITNESS: Right. These were people who were involved with politics or anything else. Maybe the military or anything. It included -- it also included people who were being threatened by guerillas, for example, who had sons and daughters who were being forcibly recruited.

THE COURT: And that's all included in the ten percent or so you feel had political reasons?

THE WITNESS: Political reasons, yes, sir.

THE COURT: And you feel that, because of your contact with people that are more involved in the political situation, you would have talked to a more disproportionate number of people who had political reasons, is that right?

THE WITNESS: Yes, of course. For example, during the time I was working in the political section if someone came to the consulate and said they wanted political asylum, since they were not able to apply for political asylum at the consulate, that was not a good avenue for them.

However, if the consular officer interviewing them thought that this person might be of interest, he would refer them up to the political section and we would attempt to interview him.

THE COURT: You all were in the embassy or consulate office?

THE WITNESS: Well, the sections are separate, but it's part of the same building.

Then, of course, through contacts in the society at large, you would -- for example, in contact with human rights organizations. Human rights organizations, some of them are very politically oriented and others are more neutral. People that were in danger would come to those organizations on occasion, and I had several times come in contact and discussed that.

THE COURT: Are there human rights organizations that operate down there?

THE WITNESS: Yes.

THE COURT: Are there some that are American based?

THE WITNESS: No, Salvadorian human rights organizations. They all have contacts with American-based human rights organizations.

THE COURT: But they are not located in El Salvador?

THE WITNESS: No.

THE COURT: Of these organizations that are based in El Salvador, is it your experience that they have information to disseminate with regard to political

asylum in the United States?

THE WITNESS: Yes, they do.

THE COURT: And was it your experience that usually it was proper information or valid information?

THE WITNESS: I think toward the end of '82 I started noticing that people were requesting political asylum, more information in other words, and not just through these organizations but more in general.

In other words, we had the distinct feeling that the word was getting out, as it were, that this was one way you could go to the United States, was to get there and request political asylum once you arrived.

THE COURT: Go ahead, Mr. Hausman.

BY MR. HAUSMAN:

Q Mr. Greentree, did you observe among the individuals you had spoken to who had come to the United States and returned any particular pattern or characterization about them vis-a-vis their sex, their age, their employment, their education? Is there anything that tied them together, common factors that you observed?

A These are people illegally ---

Q People who were illegally traveling to the United States.

A People from all walks of society. Usually those with a career and enough money didn't need to go illegally.

They already had visitor visas, and they could stay and work up there on their visitor visa, sort of a student visa.

So usually poor people. But from all walks of life I would say. Comparable to the United States, perhaps middle class and below.

Q Was there any common factor vis-a-vis their sex and age?

A Both males and females. Usually the young working age to middle age.

Q Was there any pattern with relation to their eligibility to military service?

A No, not necessarily.

Q Now, you have testified, I believe, that during a portion of your two and a half years you were assigned to economic duties with the embassy, is that correct?

A Yes.

Q Have you become familiar with the economic structure of El Salvador?

A Yes.

Q Are there any factors that relate to the economy of El Salvador that leads Salvadorians to attempt to journey to the United States?

A Yes.

Q Could you identify what those are?

A El Salvador's population is overwhelmingly poor, rural-based subsistence farmers, with no land or small plots of land, who participate in migrant labor during harvest season, harvesting export agricultural crops of coffee, cotton and sugar as the basis of the economy.

The growing manufacturing sector has a lot of rural-to-urban migration. So you have a whole new generation of poor, primarily in the capital city of San Salvador, who are seeking employment, as elsewhere in the Third World, where there may or may not be jobs.

The two main factors that I would say led to out migration from El Salvador, or three, are: Number one, the size of the population growth there -- El Salvador now is entering a major population boom; I think 40 percent of the population is under 18 -- the downturn in world commodity prices for coffee, cotton and sugar, thereby leading to depressed markets and declines in production, and, of course, the effects of the war, the destruction on the economy, and the capital outflow has resulted in that.

So the unemployment situation overall is extremely poor, down by 60 percent in some sectors. Overall I think it's about 40 percent.

Q Based on your observations as a political officer, do you have any opinion as to whether the outflow of

people from El Salvador to the United States is beneficial or detrimental to that country?

A Politically and economically, the outflow is probably beneficial in the sense that the more people that are out of El Salvador who would not be employed in El Salvador, the less tension there is, tension and pressure on the political system to respond, less pressure on the economic system to produce when it is constantly being destroyed.

Combined with that, the more people that are working out of the country, in the United States especially, and sending dollars back home, it increases the inflow of foreign exchange into El Salvador and thereby helps the economy.

Q A final question. If there were a pattern of persecution taking place, especially if it were based or keyed to the airport in San Salvador, persecution against Salvadorian citizens being returned from the United States, is it likely the embassy would be aware of it? If your answer is yes, why would that be so?

A Well, yes, the embassy would be aware of it. It first came to our attention in 1981, like I said, when we conducted investigations, both covert and overt, attempting to determine if there was such an operation going on.

Overtly, I mean it's very easy to see. I think the intelligence apparatus that would be required, the

resources that would be required to persecute returning deportees, are out of proportion to any motivation the government would ever have to persecute them.

In other words, they are facing a war, organized guerilla forces primarily in the countryside. So they have got about a third of the armed forces mobilized to protect the infrastructure and facilities and another third who are active combat.

The intelligence apparatus is fairly rudimentary in the sense that it's attempting to identify who are engaged in this warfare.

There is no logic, in other words, that would lead the security forces or anyone associated with them or any private or semiprivate organizations, for example, death squads, to persecute people being returned. It doesn't follow in the nature of violence.

THE COURT: So it's not your impression that the deportees as a whole contained individuals that were being sought by the government or by the guerillas or by any other individuals for political reasons or the political asylum reasons we have in the United States, is that correct?

THE WITNESS: I think that would be entirely random. In other words, someone that was fleeing for political reasons who failed to request asylum or had

asylum turned down and then was deported.

THE COURT: But it's not your impression it's a large number or even a sizeable number of the deportees that you came into contact with?

THE WITNESS: A very small number, if any at all.

MR. HAUSMAN: I have no further questions, Your Honor.

THE COURT: Mr. Acosta, are you going to be doing this?

MR. ACOSTA: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. ACOSTA:

Q Mr. Greentree, you have indicated and presented testimony here regarding persecution claims. Would you please elaborate as to what amount of contact you had with the actual persons -- how many people did you go up and speak to?

A People who were actually persecuted?

Q Did you indicate there were three inquiries made while you were working in that capacity?

A During the time and the whole time I was in the embassy, I believe it was three, one every year I was there, specifically on the question of deportees who had been returned.

Q Of those three, you have participated in how many of those?
A I participated directly in one in the sense of actually running the inquiry, and in the other two, I followed it closely and participated in the drafting of the report from the political section.
Q Now, what did your participation entail?
A In the first one, like I said, working with two foreign service nationals, using the list of names to identify people, using those resources to determine whether or not there was an attempt by the government to identify deportees being returned as such, follow them, investigate their whereabouts and this sort of thing. In other words, the surveillance operation.
Q Did you go out and investigate person by person wherever they were arriving to, their addresses?
A Yes, we attempted to locate them.
Q How many persons did you have on the roster that you participated in?
A I believe it was 175, out of which we located some 50. I don't remember the exact number.
Q Now, the other two-thirds were just not located?
A They were -- we were unable to locate them or they were in very isolated areas that would have taken a tremendous amount of time and resources to try to find

them.

Q Now, your conclusion, based on having spoken to one-third of this group, was what?

A That people had taken up their lives much as they had lived them before they left.

Q Is it possible that some of those persons that were contained in that list could have been subject to persecution but you didn't find them?

A Well, of course that's possible. They could have been subjected to violence. In fact, some we had found had had experiences with violence, saying most everyone in El Salvador has had some experience with violence.

Q Had any of those persons been subject to what you would qualify as political violence?

A No, political violence in the sense of being targeted for the assumption that they themselves were involved in politics.

Q Did you indicate in your testimony you were aware of the official death squads in El Salvador?

A Yes.

Q Do those death squads -- how is it they conduct their affairs? Do they have rosters or lists? What does the State Department know about them?

A We know quite a bit about the way they operate and what they are. Actually, "death squads" is a term that

has been popularlized in the United States, but it is also used in El Salvador, and they are -- I would call them a tradition in El Salvador. They have existed for a long time, and in association with the social class structure and with the official military structure.

Q Isn't it true that many of the deaths that happen in El Salvador at this point are unexplained?

A Yes.

Q Now, when you indicated that most of these persons had gone back to their normal lives, these are only the one-third that you did get to talk to. Did you actually talk to these people or -- I am trying to get an understanding of how far the investigation went.

A Well, I said I wanted to qualify it as an inquiry rather than an investigation in the sense that, because of the nature of the information that we had and the selectivity, I would hesitate to call it a full-scale investigation.

But what we did for the ones that we located, the two foreign service nationals with whom I was working conducted interviews at which they took full notes or transcripts, which I reviewed of course, and then went out and I talked personally to about a dozen of those people.

Q So out of 175 persons, you spoke to twelve people

directly?

A Directly, right.

Q Are there areas in El Salvador where you could not really go to try to locate people because of the violent conditions?

A On this specific inquiry?

Q Yes.

A I would have to look at the list and where they were. It's possible that that was true. But there were some -- in other words, to conduct a full-scale investigation of that type would take resources that we didn't have.

Q So the inquiry that was conducted by the State Department was basically by yourself and two Salvadorian nationals, is that correct?

A The one I participated in, that's correct.

Q And the inquiry involved having the Salvadorian nationals go and question some of the people you had located and then provide you transcripts?

A Right.

Q And only in twelve of those instances you went out and made personal contact with these people and questioned them directly?

A Correct.

Q Were the Mexican -- I mean the Salvadorian nationals that assisted you, were they members of the Salvadorian

government?

A No, they were private citizens, employees of the embassy.

Q You have indicated that you couldn't find any indicator that would say that basically there is systematic persecution. Isn't it true that some of those communities are of relatively small size?

A Communities in general in El Salvador?

Q Yes.

A Yes.

Q Isn't it true that in some areas people know one another well enough so that word of mouth would be sufficient to inform other persons that the person has been returned to El Salvador?

A Possibly, sure.

Q How do you think you would be able to assess whether or not there had been word of mouth communication on the returning of a Salvadorian person?

A It's a big jump to go from sort of a national level operation that would be required to persecute all Salvadorian deportees to a small village where people have been returned. It's making the assumption that somehow or other there is a system of information that spreads like that.

Q But your testimony ---

THE COURT: Are you saying basically we can't judge the Salvadorian government's capabilities by the way we judge the American government's capabilities in finding out information?

THE WITNESS: Yes.

BY MR. ACOSTA:

Q But you have found some persons have been persecuted or subjected to violence in returning to El Salvador?

A No, in the studies I conducted or I believe in the following one, we found two people that had been killed in crimes of passion.

Q But this is only out of the group of ---

A This was the following study. The first one I should say -- the first one we did was sort of a first attempt to find out about the nature of the problem. So I wouldn't want to describe it at all as some sort of conclusive investigation, like I said. But like over the three years since then, I think that there is a greater body of evidence, the ability to derive more firm conclusions from that.

THE COURT: Mr. Greentree, whose idea was it to conduct this study?

THE WITNESS: I believe that we had received Congressional inquiry and had notice that human rights organizations in the United States had picked up on the

idea that El Salvadorians were being returned as a political tool to use to criticize the government.

THE COURT: Did you all undertake this inquiry with the idea that you were going to dispel these or with the idea you were trying to find out what the truth was, or what notions did you undertake this inquiry with?

THE WITNESS: I remember at the time it just didn't -- the whole idea never fit to us at first. It was especially strange because none of the Salvadorian human rights organizations, including those that were overtly identified with the revolutionary organizations, were promoting that idea in El Salvador.

So it did strike us as being off or possibly fabrication. I don't really know what the origin of the idea was.

But my job was not to make policy or decisions of that type in El Salvador. So it was to be objective and to do as good a job as I could in finding out.

THE COURT: Are those human rights organizations in El Salvador promoting that notion now?

THE WITNESS: Not to my knowledge, no.

THE COURT: Go ahead, Mr. Acosta.

BY MR. ACOSTA:

Q Mr. Greentree, then basically your personal knowledge

is limited to the third study? That is the only study where you conducted and coordinated the work?

THE COURT: I think he has told us in one study he worked as the head and in the other two he was just involved in them. Are we going to get some more information out of him?

MR. ACOSTA: I don't think so, Your Honor.

THE COURT: Is that correct?

THE WITNESS: That's right.

BY MR. ACOSTA:

Q You have indicated in your testimony -- it's difficult for me to understand how it is you have come to the assessment that people were not being persecuted as they arrived at the airport. Are you telling this court they were not shot immediately as they got off the planes, or what is it you are saying when you reached that conclusion?

A What I am saying is that there was no, to the extent that we could determine -- and I am fairly confident we could -- there was no information passed from the airline who had the packet of documents and list of names of deportees, that information was never passed to the Salvadorian government. It's never recorded by the Immigration as those people pass through the port of entry. In other words, there is no point at which

that information is connected up to a national system.
Q But is it possible there are other ways of obtaining copies of those lists other than getting them from airport officials or Immigration Service?
A No, unless the United States government were involved, which I don't think we were.
Q You don't think or do you know whether the United States government has ever provided those?
A Unless there is a highly covert operation, again dedicating a tremendous amount of resources to something which I believe is illogical to the conflict in El Salvador, no.
Q So you don't believe there is any way to get a list of the people who are being deported by the El Salvadorian government?
A What I am saying is it could be done. Anything can be done if you want to dedicate the resources to it. What I am saying is that it would require a tremendous amount of resources, time, personnel, money and tnat sort of thing. It doesn't fit into what I know of El Salvador, and I think what most people that are tnere know. It's just not a priority.
THE COURT: Plus, you have indicated that you feel that for the present government it's a benefit to have people come to the United States, is that correct?

THE WITNESS: Yes, I think it's very low on their priority in terms of deportations. They don't really care much one way or the other.

THE COURT: But haven't you indicated it's to their benefit economically and politically to have these people come to the United States?

THE WITNESS: Yes.

BY MR. ACOSTA:

Q Did you indicate or -- let me rephrase that. When an El Salvadorian is returned as a deportee from the United States, is he subject to any security check on arrival?

A No, not necessarily.

Q He has to present no documents?

A When he comes in, if he is entirely undocumented, the immigration authority will issue him a tourist card--it's like a tourist card, but he is a Salvadorian citizen--and writes his name down on a piece of paper and stamps it and shows that he entered the country legally.

Q Isn't that a manner in which they could find out who is being returned from the United States?

A Right, but it doesn't indicate he was deported from the United States.

Q Mr. Greentree, you also testified that you are familiar with the communications system in El Salvador and

that you had observed television and read newspapers. What is the percentage of persons that have televisions in their homes in El Salvador?

A I believe it's about 45 percent, something like that. A fairly large number of people.

Q Is that basically in the large cities or also in the rural communities?

A All towns have television. I would say the primary media is radio. Almost everyone has a radio or access to a radio. Television, no, as a close second.

Q And you have also indicated in your testimony you have had occasion to go out and speak to people in the rural community. How many persons did you go out and speak to?

A I couldn't give you an exact number, but in part of my job I would spend weeks at a time in the field traveling in the countryside, either overtly as a member of the U. S. Embassy or using another identity.

Q On particular missions or to determine whether or not these persons were being persecuted?

A Not particularly on returnees, no. They were either general field reporting, attempting to determine for example, the nature of the impact of the war on the civilian population or specifically in relation to human rights violations or in relation to military operations,

followups or close followings of military operations.
Q Are there any restrictions that are imposed upon personnel from the State Department working in El Salvador in terms of communicating with ---
A Restrictions primarily for personal security reasons, yes.
Q What are those restrictions?
A Under most circumstances, people from the embassy are not permitted to travel in the countryside.
Q Isn't the countryside basically where most of the conflict is occurring?
A Yes.
THE COURT: But you have traveled in the countryside?
THE WITNESS: Yes.
BY MR. ACOSTA:
Q And during your travel you have had extensive contact with the population or you have only traveled through it?
A No, like I said, in the sense that someone had to get out and take the risks, like I said, I did not travel as a U. S. Embassy officer, but under another identity, and I would spend up to two weeks at the time in the field with the specific purpose of being in contact with all levels of society in an attempt to determine exactly

what was happening.

THE COURT: Did you pose yourself as somebody from the human rights organization or is that something you are not at liberty to say or what?

THE WITNESS: Well, I am not a covert agent in the sense I never paid money or had clandestine contacts, but it was necessary for my own security either not to reveal my identity as someone from the U. S. government or, if questioned, to pose as a journalist or something else.

BY MR. ACOSTA:

Q Mr. Greentree, you also testified basically there was some adversity with Mexican nationals, is that correct?

A Between El Salvador and Mexico, yes.

Q And what was the nature of that adversity?

A I believe it's deeply rooted in the culture of El Salvador. It's a resentment of Mexico as a nation and its people.

Q Would you conclude, based on that opinion, that basically it would be a factor in a Salvadorian person deciding not to seek asylum in Mexico?

A No, because people -- there are many people who have sought asylum in Mexico primarily identified with the El Salvadorian left. So it's also a motivating factor.

I am speaking more of a general level of the population in which there is a degree of cultural resentment and the fact that people who are traveling illegally to the United States feared running into Mexican authorities on their way up.

THE COURT: Are you saying that there are people who have sought political asylum in Mexico from Salvador?

THE WITNESS: Oh, yes. There are usually a number of Salvadorians who are members of leftist organizations actually that have sought asylum in the Mexican Embassy. The embassy then requests safe conduct for them, and they go to Mexico City.

BY MR. ACOSTA:

Q Mr. Greentree, did you testify that you did have people apply for political asylum at the embassy in El Salvador?

A Yes.

Q What are the -- aside from those persons that you have interviewed for asylum petitions, are there any requirements for people who want to immigrate into the United States as asylees based upon ecomonic factors? Would a poor person have a difficult time receiving a visa to travel to the United States?

A A nonimmigrant visa or immigrant visa?

Q Nonimmigrant visa.

A A poor person would have more trouble than a rich person, yes.

THE COURT: Why is that, Mr. Greentree?

THE WITNESS: Economic factors: Can the person afford an airline ticket and return. There is the assumption at the visa window that the individual has to prove he is going to the United States for a temporary visit. It's his burden.

THE COURT: But on an asylum situation it's not the same, is it? Would a person with money have an easier task of getting an asylum permit than one who did not have money?

THE WITNESS: Well, you can't get asylum at an embassy.

THE COURT: But you can request it, is that right?

THE WITNESS: No. It's an -- in fact, it's kind of a catch-22. If you go to a consular officer and say you want political asylum in the United States, you have to say that we cannot give you political asylum.

Then if they say they want a tourist visa, you can't give them the tourist visa because they have already told you that they want to seek political asylum.

Basically, the response is that there are many

neighboring countries and suggest that you cross the border and seek asylum there.

MR. ACOSTA: No further questions.

THE COURT: Mr. Hausman?

MR. HAUSMAN: No questions, Your Honor.

THE COURT: Mr. Greentree, your contact with Guatemala was just in 1979, is that correct?

THE WITNESS: '76, although I traveled to Guatemala when I was in El Salvador.

THE COURT: Are your present duties involving Guatemala, working for Ambassador Stone?

THE WITNESS: Yes, on international affairs primarily. I follow the situation closely.

THE COURT: About how many individuals go and request legal immigration to the United States in El Salvador?

THE WITNESS: Request immigration as opposed to a tourist visa or something like that?

THE COURT: Right.

THE WITNESS: I never worked in the immigrant section, so I don't know the answer.

THE COURT: During your two-and-a-half to almost three-year period in El Salvador, did you observe any persecution for religious reasons?

THE WITNESS: For purely religious reasons, no

THE COURT: Did you observe Catholics or certain types of Roman Catholics were persecuted?

THE WITNESS: During the time, like I mentioned, there was a major shift in the nature of the struggle in El Salvador which took place in 1981. Prior to that, you are probably aware that the archbishop of El Salvador had promoted a policy of identification of the Catholic church with organizations who overtly identified with revolutionary movements.

It was the identification of these quote, unquote, popular organizations with Marxist-Leninist revolutionary organizations which led to the persecution of members of those organizations.

Is that clear?

THE COURT: What I am asking is, let's say, about how many Roman Catholics would be targeted for persecution simply because they were Roman Catholic?

THE WITNESS: Simply because they were Roman Cathlic, none. If they were Jesuits or members of a popular organization, a Catholic community, a "comunidad de base," as they called it, that was identified with the revolutionary organization, then they could potentially be targets for persecution.

But I would add to that that following 1981 these organizations virtually disappeared entirely, and

people who were members of those collaborating with them then became clandestine members of those or joined guerilla groups and have sort of cast their lot with them.

THE COURT: About what percentage of the Roman Catholics in 1981, before they disbanded, do you feel were involved in those groups?

THE WITNESS: A relatively small percent, 10 to 15 percent perhaps.

THE COURT: Did you observe any persecution of union members?

THE WITNESS: Yes.

THE COURT: For membership or for what reasons?

THE WITNESS: Again, the same phenomenon. The unions around the world are targets of organizations, efforts by outside forces as it were.

In El Salvador, organizations prior to the 1981 period have become openly identified with the communist party or with other allied -- with other revolutionary organizations. These unions were specific targets of repression.

Today there is still repression of unions which is based on that. Although there is a free union movement, there is an extreme right political faction in El Salvador which views any political organization that

is independent as an enemy.

So these groups can again become targets, not for their identification with revolutionary organizations, but just because they are free and independent. I would say that the people who conduct that type of represssion are in the minority.

THE COURT: About what percentage of the Salvadorian population do you feel would be a target for persecution because of union membership?

THE WITNESS: I would hesitate to give a figure, but very small.

THE COURT: Mr. Greentree, during your stay at the embassy those two and a half years in El Salvador, did you read any American newspapers?

THE WITNESS: American, yes.

THE COURT: Did you all receive the major newspapers in the country or what?

THE WITNESS: Yes, we received most of the American -- I shouldn't say most -- L.A. Times, Miami Herald, Washington Post, Wall Street Journal, and New York Times.

THE COURT: Did you read those?

THE WITNESS: Yes.

THE COURT: What was your impression as to the reporting and what was actually happening in El Salvador?

THE WITNESS: Well, I should add that many officers in the embassy or some of the officers in the embassy were in daily contact with the people who were writing those stories. I developed longstanding and close relationships with many journalists for most of the major newspapers.

The style and quality of the reporting varied greatly, both because when a journalist is new to a situation he usually follows reporting that has gone ahead, but relates his personal experiences. As times goes by, he becomes more familiar with the situation and starts reporting in a more sophisticated way.

Other individuals tend to take an advocacy position, which they then gather information to maintain. So it really varies.

Of course, the editorial policies of newspapers in support of the Administration's policy will have an effect on articles cast, how headlines are changed, what stories are run and what stories are not run.

THE COURT: Does anybody else have any other questions?

MR. HAUSMAN: No questions, Your Honor.

THE COURT: Mr. Acosta, are you being pushed to ask another question?

MR. ACOSTA: I am being pushed, but resist.

THE COURT: Mr. Greentree, that is all. Thank you very much, and maybe some day you will attend Harvard.

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Court Reporter — Date 11-23-83

Senator KENNEDY. You have indicated, as I understand, that the administration is satisfied that a number of these people have not been killed when they have returned. That is contrary to at least the impression and information that I have seen, both on television and in articles which have been written. I would think that since the administration is appearing either before us here, that they would be prepared to indicate to us what the basis was of their information, and until they have that information as to what is happening to these individuals who are returned, that they would make some kind of a survey or contract out with a church group that has credibility and to have them review the situation and do it quickly. In the meantime, we should at least pause in terms of sending any more back.

You have indicated, at least from a policy point of view, you are satisfied, from the information that has been made available to the Department of State and the Immigration Service, that these fears are unwarranted or unjustified. It is evidently based upon this individual's, whatever we are going to call it, review, study, monitoring. I think we ought to have access to that kind of information.

I want to just indicate that there are many who continue to be concerned about this issue and would like to work with you on it. To date, I have not seen information that has been made available by the administration, either in the direct correspondence that I have had over a period of 2 years, or that such information exists that could give us the kind of assurances that there still is not a significant danger to these individuals. But I will continue to pursue that issue.

On another item, I know that the INS has an increase in terms of the Border Patrol enforcement. I am just wondering if there is any request in the budget for increasing services to individuals.

Mr. NELSON. There is a piece, as I testified a moment ago, Senator. One of the aspects is in the telephone service that has covered a large part of the east coast. There is an increase for that.

We pointed out a number of our programs, of course, in——

Senator KENNEDY. How much is that for?

Mr. NELSON. That figure is almost $1.7 million, 22 positions, for improved telephone service for the eastern and the western areas of the country. That has been a very effective system.

In addition, the data processing, while it is not in the 1985 budget, we have had, of course, a substantial increase in the last 2 years' budget, which has enabled us to pursue many of the items that are in my testimony and are under way and working very effectively, all of which greatly enhance our service aspects.

Senator KENNEDY. What is the average time for the person who goes in and makes an inquiry of the Immigration Service about a member of the family that they are separated from, say, in a Western European country? What is the average time that it takes to respond to that request for an immigrant visa petition?

Mr. NELSON. I am not sure. Do you know that, Ms. Meissner?

Ms. MEISSNER. Well, it depends on whether the average time for——

Senator KENNEDY. Take it for different regions.

Ms. MEISSNER. For processing the claim, for the visa petition?

Senator KENNEDY. Yes.

Ms. MEISSNER. In most situations it should be an average turnaround time of about 2 months. That, of course, is very much controlled by what visa numbers are available through the State Department for issuing visas to actually come to the United States. But our handling of family-related immigration is quite up to date.

Senator KENNEDY. How does that vary, say, the 2 months in the last 3 years or 4 years? Have you been able to bring that down in time?

Ms. MEISSNER. It has come down considerably in time in the last several years. It is still a problem in a couple of offices, Los Angeles being the most difficult because of the tremendous case load that faces that office. In other offices than Los Angeles, in Miami, for instance——

Senator KENNEDY. Could you give us a rundown, a supplement to the record, as to the general kind of processing time it is taking the different regions of the country?

Ms. MEISSNER. Certainly.

[Subsequent to the hearing, the following material was submitted for the record:]

ADJUDICATIONS

No. 45. Provide a comparision by major city showing the backlogs for the Ajudications and Naturalization program.

The following is a comparison of the six key cities identified by the Commissioner for the FY 84 priorities. A backlog is defined as pending cases in excess of a normal processing inventory. For Adjudications this is one month's receipts and for Naturalization it is four months' receipts. Statistics are for January 1983 and January 1984.

BACKLOGS

	Adjudications (weeks)		Naturalization (months)	
	1983	1984	1983	1984
Miami	12.3	9.4	4.1	9.8
Chicago	1.3	(1)	1.6	2.3
Los Angeles	(1)	.8	18.4	21.1
San Francisco	3.7	2.0	7.4	7.4
New York	.3	1.3	(1)	1.8
Washington	4.7	1.7	11.4	11.1

[1] Current.

Senator KENNEDY. How about the backlog time for naturalization petitions?

Ms. MEISSNER. We were just discussing that——

Senator SIMPSON. We just inquired on that——

Senator KENNEDY. If it is in the record——

Senator SIMPSON. It is coming down. That is very much of a concern to me. While people are ready for this extraordinary grace, we are not able to give it. That is apparently being corrected.

Senator KENNEDY. Thank you, Mr. Chairman. If there are other questions, I will just submit them for the record.

Senator SIMPSON. I always appreciate very much the way you participate in this subcommittee's activities as the ranking minority member. I enjoy very much working with you indeed.

Let me inquire, because I, too, am interested in this issue of the El Salvadorans. I have seen information that has been presented to me that the Salvadorans have traditionally been a large part of the illegal, undocumented migrant flow. How long has that been the case? In other words, the turmoil in the country is obvious to all of us. What is the history over the past 10 or 20 years as to Salvadoran migration to the United States? That would be helpful for me.

Mr. NELSON. Someone else could probably answer that better than I. I know for many, many years, and proceeding certainly to a more recent time, there has been a very significant number. What the flow is, we can get it for you at a later time.

Senator SIMPSON. If anyone here has the statistic, I would like to have that flow of the Salvadorans into the United States over the past 20-year period. I want to look at it as to where the governmental turmoil began in that 20-year period and whether there was just a continuing type of flow and whether they were literally the second largest illegal undocumented flow into the United States, where they fit in that role over this period of 20 years. I would like that, if you would please.

Did you have one more question?

Senator KENNEDY. Mr. Nelson, I wrote you on February 22 with regard to the 14-year-old boy in California who was erroneously deported to Mexico. I think you are aware of that case. Will you get an early report back to us?

Mr. NELSON. Senator, I just signed a letter off to you, I believe, yesterday. So, the check is in the mail, if you would.

I might comment just briefly on that case.

Senator KENNEDY. It will be made a part of the record when I get it.

Senator SIMPSON. Without objection, it will be inserted into the record.

[Material submitted for the record follows:]

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

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February 22, 1984

Mr. Alan C. Nelson
Commissioner
Immigration and Naturalization Service
425 I Street, N.W.
Washington, D.C. 20536

Dear Mr. Nelson:

I am certain I share your concern over reports this week that INS officers in Santa Ana, California, erroneously detained and deported to Mexico a 14 year-old youth who is a lawful permanent resident alien in the United States.

I refer to the case of Mario Moreno Lopez who was caught in an immigration sweep and subsequently forced across the border to Mexico without the knowledge of his parents, who are lawful residents in the U.S. Apparently a number of legal and administrative procedures INS officers are required to follow were either ignored or inadequately implemented.

Obviously, such incidents are extremely serious matters in of themselves, but they also understandably fuel fears of discrimination within the Hispanic community. If they are not addressed forthrightly, openly, and corrective action taken, they will not only complicate the enforcement of existing immigration law, but build further barriers to the proposals for immigration reform pending in Congress.

I understand a full investigation is underway by INS. I would urge you to take this matter under your personal direction and assure that all the facts and circumstances surrounding this sad and unfortunate incident are brought to light. I would also like to ask that a full report be submitted to the Subcommittee as soon as possible. To do less would be to suggest that INS does not take seriously such inexcuseable incidents.

Many thanks for your consideration and best wishes.

Sincerely,

Edward M. Kennedy
Ranking Minority Member

[From the Washington Post, February 27, 1984]

William Raspberry

Deported—By Mistake

The mistaken deportation of a 14-year-old California youth is a clear example of the wrong way for the Immigration and Naturalization Service to do its job. The much tougher question is: Is there a right way?

Mario Moreno Lopez was picked up (along with several adults) in a Feb. 15 immigration "sweep" on a Santa Ana street. He didn't have his resident-alien card with him and, according to INS officials, didn't tell them he had one. Instead, they say, he signed a paper authorizing his deportation as an illegal alien.

Lopez was put on a bus, driven to the Mexican border at Tijuana and dumped.

INS Commissioner Alan C. Nelson says it shouldn't have happened. The agents apparently ignored recent agency rules mandating softer treatment for minors. The boy himself failed to tell the officers that he was a legal resident in the United States, a statement that could have been verified by computer check.

"A resident alien is supposed to keep his card with him at all times," says Nelson, "but we hardly ever prosecute for not carrying the card. Usually we give the person the opportunity to get his card. We either take him home to get it, or let him arrange for someone to bring it to him."

In short, if either the INS or young Lopez had behaved differently, the youngster would not have found himself alone and confused in Tijuana. (His father spent a frantic weekend looking for him there before the boy slipped back across the border and was found wandering a San Diego street.) The Lopez case, says Nelson, is a rarity.

No doubt. But if there are ways to avoid wrongful deportation, it isn't quite so easy to avoid what might be called the "hassle factor." Legal residents and, in fact, U.S. citizens, can be subjected to the awkward and embarrassing necessity of proving that they have a right to be where they are—a necessity triggered in part by their mere appearance. A natural-born U.S. citizen may find himself asked to produce identification that, as an American citizen, he is not required to possess.

On the other hand, INS officials, charged with finding and deporting illegal aliens, can hardly be expected to accept automatically a suspect's declaration that he is a citizen. And if that became a rule, it would be a simple matter to teach every illegal alien to claim U.S. citizenship. What is involved is a tricky—perhaps impossible—balance between the pragmatics of law enforcement and the right of Americans to be free of hassles based on how they look.

Immigration officials insist, not all that convincingly, that the matter of personal appearance is overplayed. "We don't just question someone because he happens to look Hispanic," an INS spokesman said. "The courts have held that no one thing—the fact that a person speaks with a Hispanic accent, or dresses like a Mexican, or whatever—is enough. But when you take language, dress and a certain furtive behavior in combination, these become articulable facts" that can justify detention and questioning. "The same thing happens in criminal cases; innocent people are sometimes put through the law-enforcement process. Without that, we simply couldn't enforce the law."

Nor, officials insist, is it a question of picking on Hispanics. It just happens that, in the southern United States, Hispanics are the preponderant illegal immigrants. Besides, says Nelson, the overwhelming majority of the tips that lead to the so-called sweeps come from Hispanic Americans.

As for the Lopez case, Nelson says the media have been too quick to focus exclusively on the actions of INS agents. "The place where the boy was picked up is a place where illegal immigrants are known to congregate as they wait for casual-labor work. Why was Lopez at this place? Why did he make no effort to show that he wasn't an illegal? The media should raise these questions before coming to the conclusion that our agents did something wrong."

In fact, the questions were raised—and answered. Young Lopez said he signed the paper because he saw one of the men taken in the sweep "thrown to the floor" after he refused to sign.

Nelson finds that hard to believe. But I find it a lot easier to believe that the boy signed out of fear than to believe that he did it merely to embarrass the INS or because he was hankering for a bus ride to the border.

U.S. Department of Justice
Immigration and Naturalization Service

Office of the Commissioner
Washington, D.C. 20536

CO 703.1192

MAR 1984

Honorable Edward M. Kennedy
Ranking Minority Member
Subcommittee on Immigration
and Refugee Policy
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Senator Kennedy:

This refers to your letter of February 22, 1984 regarding Mario Moreno Lopez.

I am, of course, concerned over the apparently erroneous removal from the United States of a 14-year-old lawful permanent resident alien.

Mr. Moreno told the arresting officers that he had entered the United States illegally, that his parents resided in Mexico, and that he wished to return to Mexico. The officers had no reason to doubt Mr. Moreno's statement. My preliminary inquiries in this matter lead me to believe that this is an isolated incident.

This Service has developed a policy for the custody of unaccompanied minor illegal aliens to ensure the physical safety and protection of the civil rights of individuals too young to understand the proceedings in which they are involved, and, in many cases, unaware of their citizenship or immigration status.

I have directed that a full investigation of this incident be conducted by the Office of Professional Responsibility. I will be pleased to provide a full report to you and the Subcommittee on Immigration and Refugee Policy when that investigation is completed.

Sincerely,

Al Nelson

Alan C. Nelson
Commissioner

Mr. NELSON. I think that case has been very interesting. Unfortunately, it has probably been hyped up well beyond the need. No one likes to deport anybody by error or otherwise. I think a broader perspective—and Chief Eliason could probably speak much better than I could about it. When you look at the millions and millions of people that we deal with throughout the year, it is really amazing to me, as still somewhat of a newcomer, that even the number of allegations of improper behavior or whatever on behalf of the Border Patrol or INS are really very minimal. The number of those that are ever verified are extremely minimal. I think that is an important perspective.

Chief Eliason just testified, as a little counterbalance, of the task force between the San Diego Police and the Border Patrol that are mainly patrolling in this no-man's land between the borders. There are a lot of bandits that are preying on the illegals. Here the local police and the Border Patrol are actually putting their lives and limbs on the line to save illegal aliens from harm. So, I think a lot of this kind of humanitarian effort goes on.

Let us turn to the situation of the boy. Now, I think the facts there, while still being looked at, as all cases, lawsuits, and others, seem to drag on, I think the facts are basically clear. First of all, the boy—and if you have seen his picture on TV or otherwise, he hardly looks 14. So, it is quite easy to expect that he was older. The other thing is that he was picked up with a group of some 30 illegals at a known congregating place where they go to work and you wonder why he is there. According to our people—and there is no reason to doubt this—stated he was an illegal alien, gave where and how he came across, that his family was back in Mexico. Never at any point did he say he was legal or had a right to be in the United States. He signed a form that indicated he wanted to go back, and therefore was processed.

Now, the only mistake the INS made was that, when the officer put down his age, his birthdate, or whatever, did not do the right subtracting and note, he was 14 and maybe we ought to do something different. But the end result would have been the same, that he would have gone back.

So, I think, to indicate there was any, you know, impropriety is just not based on the facts.

Senator KENNEDY. I will look forward to your response. I appreciate that being made a part of the record, Mr. Chairman.

Senator SIMPSON. You are welcome.

Let me go forward now with some questions of Mr. Brandemuehl and Mr. Kisor, if you would both care to respond. I noted the positions in the budget. Yet, I find one training position puzzled me a bit. How do you expect to handle your training workload and to fill the Border Patrol positions with only one additional training staff person?

Mr. BRANDEMUEHL. Mr. Chairman, I will try to answer that.

At our academy in Glynco, we have a staff of 22 on the Border Patrol Academy side of the house. We are actually getting three additional positions for that side of the house. The one position that is being reduced is from the other side of the training part of Glynco, which will have no impact on the Border Patrol Academy whatsoever. As we add these classes, they will be added incremen-

tally. Then we will be detailing officers from the field into the academy to take up the slack. We are looking at this as a temporary period. We have a lot of officers that have already been through the academy, detailed as instructors. We use this cadre to train these additional classes, along with our permanent staff down there.

Senator SIMPSON. So, there is adequate training there for these new personnel. That is the critical point.

Mr. BRANDEMUEHL. Yes.

Senator SIMPSON. Without question.

Mr. BRANDEMUEHL. We have been negotiating with FLEC, which is the Federal Law Enforcement Training Center. They say they can train the 22 classes.

Senator SIMPSON. You are not just being a good soldier. You can really get this done, right?

Mr. BRANDEMUEHL. If we have to, I will train them in my backyard if we get them. We are that serious about it.

Senator SIMPSON. What is the other side? What officers are being trained on the other side which is being shorted by the cut?

Mr. BRANDEMUEHL. It is our officer development training courses, which will be our immigrant inspectors, our detention officers, our investigators, anything that does not fall under the Border Patrol Academy there.

Senator SIMPSON. Two positions are reduced in this management area of immigration support and are to be absorbed by detailing instructors from the field. Does that mean a further decrease there in available instructors?

Mr. BRANDEMUEHL. Not from the Border Patrol Academy. I think the net result will be one position that will be reduced, if I am not wrong.

Senator SIMPSON. This increased Border Patrol force, which is apparent here, how is that going to affect the percentage of illegal entrants apprehended along the southern border?

Mr. BRANDEMUEHL. I think initially we will have an increase in apprehensions. But as soon as the aliens become discouraged, we feel that there will be a decrease in apprehensions, to the point where we have a real meaningful deterrent. Now, exactly when that is going to happen, I do not know, but that is the way we anticipate it.

Senator SIMPSON. In regard to the budgets, since that is what we are talking about, obviously there will be some savings inherent here, as you realize them, resulting from the natural delays in recruitment and hiring of Border Patrol personnel. What will be the allocation of those savings that you will realize?

Mr. BRANDEMUEHL. We will use the savings for construction purposes and also to buy additional equipment for the agent coming on board.

Senator SIMPSON. And that is something that you have been working toward or hoping for in the past?

Mr. BRANDEMUEHL. Yes. We will certainly need the additional—if they are fully funded, the positions, then that will give us the flexibility to direct some of the funds to much-needed construction for the oncoming Border Patrol agents.

Senator SIMPSON. In this budget, there are 1,025 positions requested for investigations but a figure of only 793 work-years. Why is that?

STATEMENT OF RAY KISOR

Mr. KISOR. If I could respond to that, Mr. Chairman.

Senator SIMPSON. Please.

Mr. KISOR. In 1982 Congress determined that it would restore the 403 positions that had been deleted previously. They did restore the positions, but only the funding for 215 of those positions. Therefore, subtracting that from the 403 left us with 188 unfunded work-years. Adding that to the 769, we arrive at the figure just under 1,000. That is probably within 6 percent of our total of 1,025. Of course, as I say, with that funding of 215 positions, it brings us up to a grand total of 769.

Senator SIMPSON. How much time involved do you get diverted—what I would think a bit diverted—that is to say do you work in welfare fraud cases? And is that consistent with the provisions of the INA? Does the INA authorize that role for you?

Mr. KISOR. Yes, sir; we do feel, Senator, that is consistent with section 287 of the Immigration and Nationality Act of 1952. We only expend some 3 percent of our investigative efforts on that. For the most part, it is a passive endeavor. That is, the other governments, State and local governments, make inquiry into our automated data processing to determine whether or not a person requesting benefits is actually entitled to those. Then, in turn, the agency sends out a letter to the intended recipient, asking them to appear at the INS office for verification. Only 10 percent of those actually appear; 90 percent of them never even show. So, we do not have to expend more than 3 percent of our efforts because those 10 percent that show have to be interviewed. Then we make a search of our records. As a matter of fact, 5 percent of those 10 percent are found to be illegals. So, we only take into custody some 5 percent of them, and they go into the deportation proceedings.

Senator SIMPSON. I see.

Mr. KISOR. If I might say, in Los Angeles alone, for the first quarter of fiscal year 1984, there was some $11 million cost avoidance. We only expended the full time of two investigators and three clerks. So, we felt that it was a very cost-effective endeavor. Of course, entitlements is one of the two major pull factors for aliens coming here. Jobs is the first; entitlements, the second. So, we think it is a good expenditure of our resources.

Senator SIMPSON. In the context of the total number of things that you handle, where are we with regard to the allocation of annual resources in these things: investigators, investigations, issues of welfare fraud, or locating illegals, large-scale immigration fraud, versus high-priority areas; criminal aliens, known employers who exploit, and use, and abuse, bogus schemes, and other large-scale frauds, and illegal receipt of benefits and a known scam in that area?

Mr. KISOR. Sir, insofar as our interior enforcement is concerned, we spend about 50 percent of our personnel's time on what we call impact level 1, which is the major notorious employers, the persons

who have been convicted of violent crimes and are awaiting the determination of their sentence so that we can take them into custody, and also the fraudulent facilitators, marriage schemes, and others, and, of course, the entitlement programs. But we spend about 50 percent of our time on that. Then the other impact level, the status violators being the least of them, we spend probably maybe about 20 percent of the time there, and the other 30 percent on impact level 2, which maybe involves some fraud but of an individual nature, a man and wife being married with fraudulent documentation.

For this year, looking at our statistics for the first quarter of this year and projecting that on throughout 1984, we find that we are probably making apprehensions, arrests, and successful completions of maybe 12,700 cases, while the overall cases will be some 85,000.

So, it is certainly is the smaller percentage of cases in the impact level 1, but they have much more lasting effect.

Senator SIMPSON. It seems to me, just for my own curiosity, that the marriage-fraud issue is a bit more prevalent than we would imagine in this country. What do you find about that particular activity, marriage fraud?

Mr. KISOR. We find that it is a great concern, and it is a vehicle by which many illegals come here and take supposedly legal residency. We are investigating those. These are very sensitive, ongoing investigations. Our forensic laboratory is examining the fraudulent documents which are used to facilitate those kinds of bonds.

Senator SIMPSON. I think even those engaged in my old profession of law recommend that often to their clients. That is a misuse of the term when they are making that kind of counsel. Are you finding that, too?

Mr. KISOR. Yes, sir.

Senator SIMPSON. I have just a couple of more questions.

Approximately one-third of the proposed increases in detention and deportation areas appear to be targeted at existing facilities and present apprehension figures. Will these remaining funding and staffing increases be adequate to handle increases from the enhanced Border Patrol activities? With all of this new personnel here we are. Are we going to be ready for that?

Mr. BRANDEMUEHL. I will respond to that, Mr. Chairman, if I may.

Yes; we think it will be sufficient. First of all, to staff Florence, we borrowed from our other regions temporarily because the Bureau of Prisons was abandoning that facility. So, we needed some personnel in there immediately. Therefore, with the request in 1985, we hope to repay those. Then the remaining two-thirds will go to our sectors along the border. We think that that will be sufficient to address the increase in personnel.

Senator SIMPSON. The proportion of detention and deportation personnel to Border Patrol appears to be shrinking. Is this going to change the effectiveness of detention and deportation operations?

Mr. BRANDEMUEHL. We assign our detention officers on the basis of apprehensions. We usually have a ratio of 1 detention officer to every 9,000 apprehensions. Recently, the ratio climbed substantially, up to about 1 detention officer for every 12,000 apprehensions.

We are almost doubling the force on the southern border, speaking of detention officers. Therefore, we believe that this will bring the ratio down to acceptable levels, back down to the 1 to every 9,000.

Senator SIMPSON. Why was there such a sharp increase in the number of documents examined and analyzed between these 2 fiscal years? That figure was 8,000 before and now 46,000. Why is that?

Mr. BRANDEMUEHL. This is at our forensic document laboratory. The primary reason is that it just came on line, became fully functional in May 1983. I think the biggest reason is that it is just now being utilized more by the Service and also by other agencies.

Senator SIMPSON. I see you project use of 103,000 in fiscal year 1985. So, do you think that is well worthwhile? Is that proving to be obviously helpful as an increase?

Mr. BRANDEMUEHL. Definitely. It is a very useful tool for us. We are seeing this by the increase in usage. When we are having an increase in fraud and alien traffic, it is becoming invaluable to us.

Senator SIMPSON. Finally, I note this term "prosecutions requiring testimonial assistance." That went up about 60 percent. What, briefly, explains that?

Mr. BRANDEMUEHL. That is where our document lab personnel, as they review and identify these documents, then they are required to testify in court. So, it is just directly proportional. The more that we utilize this, the more that they will be called to testify. We think that is healthy. That has given us very good liaison with other agencies as well as internally.

Senator SIMPSON. And with the documentation, their testimony becomes more effective and more helpful?

Mr. BRANDEMUEHL. That is correct.

Senator SIMPSON. I have just a very few questions for you, Mr. Eliason. I recall our visit some time ago in El Paso. You were acting chief then, I think. Rather, there was an acting chief there then when we were there. You impressed me then. Now you have gone on to newer and tougher areas. You do not get any short duty there, do you, anywhere in your travels?

This is an extraordinary figure: 1982, 429,000 deportable aliens apprehended in Chula Vista; 42 percent of the southern border total, although you patrol only about 60 miles of the border. Is that correct?

Mr. ELIASON. That is correct, sir.

Senator SIMPSON. I see that 239 of the new Border Patrol agents will be assigned to your sector. What effect is that going to have on Border Patrol?

Mr. ELIASON. The Chula Vista sector, Mr. Chairman, already represents about 40 percent of Mexican border arrests. Our primary area of concern is that first 12 miles from the Pacific inland to the San Ysidro Mountains, an area which parallels the city of Tijuana, Baja California. We feel we have to begin to achieve control in that area, and that is where most of this force will be dedicated. We think we can control it, but it does require that increased officer presence, plus the utilization of all of the technologies I referred to.

Once we begin to control that, we will see a movement to the east. Aliens will try to probe my area out in the mountains around Campo and in other areas. We will see this movement shift on

toward Yuma and El Centro. But once the movement begins to go east, then the terrain gets tough. Then the aliens have to walk further to reach some center of civilization or go further inland to make the contact with the smuggler and the vehicle. That gives us the advantage. It shifts then to our side. We have better capability to intercept these aliens before they can reach their destinations.

We will see an increase of apprehensions initially, I think, as the Commissioner has testified. But we will begin to discourage these people because we are going to catch them more often. After you are caught so many times, you are going to simply say, well, I cannot make it. We will see increased tendency on the part of these potential illegal entrants to simply stay home. They will make do with what they have at home.

Senator SIMPSON. How soon do you think that you will be able to have these agents trained and on the job, based on your experience?

Mr. ELIASON. As Mr. Brandemuehl pointed out, the new agents would be coming in in increments of, I think, 48 biweekly. So, we are looking at hiring throughout fiscal year 1985. They are going to spend their first 17 weeks in the Border Patrol Academy, going through the training process. Once they complete that, they will be put to immediate use in the field, working with journeyman officers. But this process, as I say, will go on throughout 1985. In fact, the last ones hired will not be in place in the field until about the second quarter of fiscal year 1986. We will get immediate help from some and a year and a half later a lot of help from all of them.

Senator SIMPSON. Have you noticed any significant changes in the level or the composition of the illegal alien flow in the Chula Vista sector?

Mr. ELIASON. Yes, sir; in January, our arrests of other than Mexican aliens were up 60 percent. In February, they were up 90 percent. This is compared to the same months a year ago. We arrested 982 other than Mexican aliens in the Chula Vista sector last month.

Senator SIMPSON. Where were they from?

Mr. ELIASON. The largest number were from El Salvador, about 55 percent from El Salvador. We had the highest number of Guatemalans ever arrested. We picked up seven Hong Kong Chinese. We had Punjabi Indians in our load. We have had Koreans. We are seeing increasing numbers coming from all over the world, Mr. Chairman.

Senator SIMPSON. Do you still have certain of those who are from Central America and Mexico who do not speak Spanish but who speak Aztec dialects? Do you have that group, too?

Mr. ELIASON. Occasionally, but it is not any significant number at all, Mr. Chairman.

Senator SIMPSON. I see. I recall visiting with some persons of that ethnic group when I was there before you came to El Paso.

That matches what we know is the change.

What is the percentage—and we often have this figure bandied about—of illegal crossers that are apprehended at the border, if you can tell us?

Mr. ELIASON. I wish I knew. If I really knew, then I would have caught all those that made it past me.

Senator SIMPSON. That is right.

Mr. ELIASON. I would like to think, Mr. Chairman, that we are getting at least 50 percent; maybe a tad over, but I doubt it. But I think we are in that ballpark, at least in the Chula Vista sector.

At certain times of the day or the week, we are higher than that. Saturday and Sunday, when we have our major push, our largest volume of illegal entrants, I think we fall a little bit short.

Senator SIMPSON. Like one out of three or something of that nature?

Mr. ELIASON. I hope it is not that bad, Mr. Chairman.

Senator SIMPSON. Well, we have heard that figure, one out of four before.

Mr. ELIASON. I think we are more effective than that.

Senator SIMPSON. In just these recent months or——

Mr. ELIASON. Overall, at El Paso. I never felt that I was that bad, as one in four. I think at least one in two, and from time to time when things are a little slower, we do better than that.

Senator SIMPSON. Have you seen that increase in efficiency over the past 3 years?

Mr. ELIASON. Absolutely. With the introduction of the helicopters, the night-viewing devices, we have become much more efficient.

Senator SIMPSON. Well, we will all have to stop being so dramatic, about one out of four, then.

Thank you very much. It is very helpful. I appreciate it. I appreciate what you do for your country and your humane approach. I, too, must say that in the millions you deal with, it is amazing to me that we do not hear more. I share Senator Kennedy's concern about this one particular incident. Yet, I have read that full report. I do not know what more could have been done under the circumstances as to what the young man was telling those who were involved.

It is a tough job. I do not know how you do it with the lack of legislation that we give you to do it with. That is the vexing part.

Thank you very much. I appreciate it.

We will have this next group now: Joe Sylvester, Acting Associate Commissioner for Management; John Murray, Associate Commissioner for Information Systems; and Andrew Carmichael, Associate Commissioner for Examinations.

We are going to take a 3-minute recess.

[Short recess taken.]

Senator SIMPSON. The hearing will come to order.

It is good to have you here.

STATEMENTS OF JOE SYLVESTER, ACTING ASSOCIATE COMMISSIONER FOR ENFORCEMENT; JOHN MURRAY, ASSOCIATE COMMISSIONER FOR INFORMATION SYSTEMS; AND ANDREW CARMICHAEL, ASSOCIATE COMMISSIONER FOR EXAMINATIONS, IMMIGRATION AND NATURALIZATION SERVICE

Senator SIMPSON. Let me ask questions under this request. I think this would be directed to you, Mr. Sylvester.

Information and records management will absorb a net reduction of 42 permanent positions, 48 work-years. That includes 31 central office positions which are to be eliminated due to scheduled system improvement.

Could you tell us what improvements made it possible to eliminate those 31 positions? Can you identify which areas they will be leaving? Where is it, records, statistics, telephones, what? And it looks like we are going to be experiencing heavier traffic and use. Thus, I wonder about that cut.

Mr. SYLVESTER. Mr. Chairman, this decision is under Mr. Murray's control, and he is going to respond to that one.

Senator SIMPSON. Please do.

Mr. MURRAY. Senator, the ability to reduce the number of people is directly attributable to the NIIS system, which is the nonimmigrant information system, that is now automated and the fact that we also are farming out the data-reduction part of that. In addition, we have a thing called the index system, that combines the ability to do the master index input and also the card facility, the green cards. That has also been contracted out and is also automated now. So, we do one function instead of two. This basis will be eliminated from the records branch with no impact at all.

We have increased the amount of traffic as far as telephone service. The implementation of the ask immigration system and the central-telephone-service center that serves four or five district at a time will allow us to answer more calls with fewer people. Therefore, we do not need additional people in those areas.

Senator SIMPSON. How many of the currently authorized 10,601 INS positions are filled?

Mr. SYLVESTER. Mr. Chairman, the latest figures are that we have 9,903 full-time, permanent positions filled, which we think is probably as high as any agency in town as a percentage and certainly higher than INS has been in past years, as a result of Commissioner Nelson's drive to get as many positions as possible filled. We presently feel that we have just about every position filled that we can afford.

Senator SIMPSON. I will just let you respond, whoever would feel most able to do so. I think this is in Mr. Murray's bailiwick. Is information on the arrival, departure, intended destination, and all those things on nonimmigrant entrants currently available on the nonimmigrant information system?

Mr. MURRAY. It absolutely is. We currently have approximately 17,898,000 records on that system. Of that, 6.25 are matched departures and arrivals. In other words, 12½ million of the 18 million. So, we are matching approximately 65 percent of arrivals and departures as they occur. In addition, this information is in fact available to law enforcement agencies and intelligence agencies and also for our own statistics.

Senator SIMPSON. What time period does the data cover? Who can access the system? How is that system accessed?

Mr. MURRAY. It is January 1, 1983, through 13 days prior to today. That is our lag in entering the data in. So, we do have approximately 14 months of data on the system now.

Anybody who has a terminal in INS, a standard terminal, can use that terminal for not only, say, the MIRAC checks; but they

can also access the nonimmigrant information system from the same exact terminal. They can also do it from the ports of entry. It is also available to those who in fact have our terminals that are non-INS people.

Senator SIMPSON. You have a 65-percent match, you say?

Mr. MURRAY. Of those on the record now. That means that there are those, of course, who have arrived who have not departed. So, for records over 3 months old, the match rate is probably 85 to 90 percent.

Senator SIMPSON. And you are headed higher?

Mr. MURRAY. Yes, we are.

Senator SIMPSON. I think that is a very important thing. What is that total number per year that you deal with in that area?

Mr. MURRAY. It is 22 million, we feel.

Senator SIMPSON. 22 million? That is a startling figure.

Mr. MURRAY. That is arrivals and departures. So, that is 11 million people.

Senator SIMPSON. I see.

Mr. MURRAY. So, we have to have the ability, we feel, during the Olympics to be able to handle, shall we say, a few more people who might be tooling on into the United States.

Senator SIMPSON. You don't believe that, do you?

Mr. MURRAY. It just might occur. We do have the ability to load about 345,000 a day.

Senator SIMPSON. There will be some extraordinary athletes who will stay. They will be running, maybe, all over the United States. I think we might find more of that than we would ever anticipate. I really do. I think that is just my hunch. Don't publish it anywhere. I think that we will find some very interesting things with that large world population in that city.

Could you please explain the antismuggling information, which is of great interest, I know, to Chairman Mazzoli, as it is to me, to Senator Kennedy, to Congressman Lungren, all of us on that one, this new information system coming on line at the Border Patrol sector in Vermont? When will that be in place in other areas? Is that going to eventually serve all border areas or only those on the southern border?

Mr. MURRAY. As you know, it is currently only in place in Swanton, VT. On April 15, it will go to El Paso, TX; on July 1, to the west coast. We currently have about 95 to 105,000 records on it. We will have approximately 1.2 million by the time we get through with the west coast. That also will be available to other sectors. In other words, once you are on our system, you are able to tool to the other data bases, as we do have access through our telecommunications system.

Senator SIMPSON. On that marriage-fraud system, that is operational. Does that on-line lookout system duplicate any Treasury enforcement communications system?

Mr. MURRAY. Our TEC system reverses our on-line lookout book. The same information is available on TEC, because we do give it to them. The difference between the TEC and our system is in fact that the TEC system requires an exact name match. That terminal is only used for just the TEC system. Ours has 17 different types of inquiries, and it is also available on terminals that can be used for

many other purposes; for instance, NIIS, and the MIRAC. So, what we have is a system that can be available to everybody in the service. It also has a 3-second response time, which I think is fairly fast.

Senator SIMPSON. Three seconds?

Mr. MURRAY. Yes.

Senator SIMPSON. That is fairly fast.

I have some other questions. I am going to submit those to you in writing. I will do that. Mr. Carmichael, I might have a question here for you.

We note that the use of overtime is down, but that we are increasingly using part-time or temporary employees in the inspection area. How efficient is the use of part-time or temporary employees? Can those employees master the intricacies of immigration admission requirements? That concerns me.

STATEMENT OF ANDREW CARMICHAEL

Mr. CARMICHAEL. Mr. Chairman, as you know, we have used temporary inspectors for many years, beginning with days when we used them by and large for seasonal increases in our workload. But in recent years we have found the general use of temporary inspectors to be efficient. First of all, we can deal more effectively, we believe, with peak periods of arrival at airports, when we might have two employees on board 4 hours each rather than having one stretched over an 8-hour period.

We have been concerned, as you have, in the past about the adequacy of training. Within the last year to a year and a half, we have had roving professional staff instructors going to the major ports, giving the instruction we think is necessary for temporary employees. Of course, we see to it that they work under very close instruction and supervision at the ports. We think it is an efficient way.

Senator SIMPSON. What is the basis for the INS anticipating reductions in the number of persons preinspected and the number of inadmissible aliens intercepted in fiscal year 1984? Why then do you project increases in fiscal year 1985?

Mr. CARMICHAEL. Well, with respect to the number of persons preinspected, Mr. Chairman, we forecast in the preparation of this budget that, due to a number of factors including the economy, international travel may be down, both with respect to persons from other countries coming here and our own people leaving and returning. We think that that is now turning around. A reasonable forecast for 1985 is in order.

With respect to the number of inadmissible aliens intercepted, we have in the last year or two refined our manner of counting our inadmissible, mala fide persons, particularly at land border ports of entry. We found that some of the data we were using before was a bit soft. In instructing our inspectors on the proper way to report the inadmissible aliens, we have realized for the moment at least a reduction in number. However, as traffic does increase, we expect those to go back up. Furthermore, as part of our 1984 priorities, we are concentrating on fraudulent document detection. We are putting together a task force of officers who have particular expertise

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in this area to start visiting the ports and, we think, enhance the ability of inspectors everywhere to do a better job than they have been doing, and that has been pretty good.

Senator SIMPSON. Your last words were what? I missed them.

Mr. CARMICHAEL. It would enhance our inspectors' ability to detect fraudulent documents, even better than it is now. And I said I think it is pretty good now.

Senator SIMPSON. INS cleared approximately 11,760 asylum cases in fiscal year 1982 and approximately 24,000 in fiscal year 1983. How do you propose to effectively address this backlog of 166,000 asylum cases shown at the end of fiscal year 1983 without increased personnel?

Mr. CARMICHAEL. Mr. Chairman, Ms. Meissner, I believe, will respond to that.

Ms. MEISSNER. Mr. Chairman, on the asylum caseload, first of all, we are presently subtracting out the Cuban and Haitian caseload, because they would be reached under the special provisions of your legislation. So, for our operational purposes, we are talking really about a caseload of somewhere in the neighborhood of 35,000 to 40,000 that we are working on this year.

Those cases, as I mentioned earlier, are cases that require interviews. We have directed that our district office personnel concentrate their efforts on interview cases. The 40,000-pending caseload, along with receipts for this year, puts us in the neighborhood of about a 70,000 caseload this year on asylum. We are doing asylum cases at the rate of about 6,000 a month. So, you can compute that. It comes out to handling about 72,000 cases this fiscal year, which will bring us current by the end of the fiscal year.

We, of course, recognize that our handling of an asylum case does not finally dispose of the case, because there is a high rate of appeal of our decisions to the immigration judges, and generally——

Senator SIMPSON. What is that rate, if you could furnish it?

Ms. MEISSNER. It fluctuates. It is about 60 percent. That may change as we handle the cases in a more timely fashion. We are assuming that it will diminish as we handle the cases more quickly. But up until now it has been a very high rate.

We have been working very closely with the Executive Office for Immigration Review and with the State Department on the respective roles that they play in handling the asylum caseload. Nonetheless, we are moving it extremely quickly, as compared with the past. We are finding that cases coming in and being filed now, people filing cases when we inform them that they will be scheduled for an interview in 2 or 3 weeks, we are finding a fairly high rate of withdrawal of applications.

Senator SIMPSON. What is the rate of appeal from the Board of Immigration Appeals?

Ms. MEISSNER. I do not know that figure. We would have fairly unrepresentative statistics on that because the production has been fairly low to that point. We can certainly supply for you what it has been.

Senator SIMPSON. If you would.

[Subsequent to the hearing, the following material was submitted for the record:]

I believe those figures are not available. The Board of Immigration Appeals does not keep their statistics on asylum cases but rather on deportation or exclusion hearings. Asylum could be an issue in these hearings but the deportation and/or exclusion is the reason for the hearing not the asylum issue.

Ms. MEISSNER. I am not sure it is too good an indicium of what would happen in the future.

Senator SIMPSON. The INS budget shows 64 positions in the refugees and overseas area but 115 workyears in that area. That is a substantial use of temporary or part-time employees again. What is the ratio of permanent employees to temporary, and what are the future plans in that area? Are temporary employees being used to adjudicate asylum applications?

Ms. MEISSNER. No; we do not use temporary employees to do asylum applications, either in the United States or in the overseas program.

The discrepancy there is not due to the use of temporary help. What it is due to is the fact that we are not required to count Foreign Service nationals against our permanent employment ceilings. So, in the 115 workyears we are including about 44 Foreign Service nationals. We pay for them. They are permanent employees that are with us, that are trained by us, that we consider to be part of our overseas work force. They are qualified, but they do not have to be counted against our permanent positions. The only temporary employees that we use overseas, here and there we will use some temporary clerical help or some temporary help as interpreters. But, basically, that is a budgetary accounting anomaly

Senator SIMPSON. Even with the computation of Cuban and Haitians—and I understand that when we deal with asylum and so on—but you estimate 35,000 asylum applications for fiscal years 1984 and 1985. That number actually fell from 1982, about 33,000 to 26,000 in 1983. How have you arrived at that estimate?

Ms. MEISSNER. Our receipts on asylum are fluctuating to the point that it is difficult to estimate what the ongoing caseload is going to be. The 35,000 figure there was based on, you know, you construct budgets 2 years in advance; and when that figure was constructed, it was based on the receipts we were getting at that time. It looks now for this year as if we will be running a level of receipts somewhere around 30,000. As I say, it is hard for us to say exactly what level of receipts we will be getting on a permanent basis. We are presently planning on about 30,000 receipts a year, as the rate is going at this time.

Senator SIMPSON. I have a time problem myself. I tried to say we would end at 4:30, and that was certainly remarkable. We have. It is through the skill of the chairman, of course.

I do appreciate hearing your thoughts and your answering the questions. I commend you all, I really do. You have taken an agency which was, as I described it, in tatters. And this is not a partisan statement. The agency has been in tatters through Republicans and through Democrats. But I think that, certainly, things have actually changed, I mean more than cosmetically. Even if it is a slow, laborious, tedious process, at least you are trying. And that

is a lot better than a lot of people do around here when they come on to the scene and say I cannot do anything about that place.

You have tried. You have been accessible. You have all been very helpful to me personally, and I appreciate that. I think that the key to it is that you do not try to duck the bullet when they fire one at you. You respond, and that has got to be important in this town. It is when you begin to play the other way that you get it in ways you never knew where it came from. So, that is important.

I commend you, I really do, each and every one of you. I think you certainly have an operable budget in every sense. You must have done a good job of selling it. I would have loved to have had some photos of you and David Stockman during some of the negotiations, but we are spared that somewhere.

I want to thank you. I want to thank the staff: Betsey Greenwood, Tina Jones, Carl Hampe, Dawn Wadlow, a new intern, and, of course, Dick Day for his steady help, and the minority staff who we work with and enjoy, Jerry Tinker and that crew; we enjoy them.

Thank you. We will be in close touch as we go on.

Mr. NELSON. Thank you, Mr. Chairman.

Senator SIMPSON. The hearing is closed.

[Whereupon, at 4:32 p.m., the subcommittee was adjourned.]

APPENDIX

Additional Submission for the Record

Prepared Statement of Charles J. Murphy

Mr. Chairman and Members of the Subcommittee I am pleased to appear today and present testimony regarding the FY'85 budget request for the Immigration and Naturalization Service, (INS).

My name is Charles J. Murphy, and I am the President of the National Immigration and Naturalization Service Council of the American Federation of Government Employees. This is the first opportunity I have had to appear before this Subcommittee and I would like to thank the Chairman for providing us with the opportunity to be present here and to testify.

We are pleased that the Administration has seen fit to seek the largest increase in resources for INS enforcement in the history of the Service. We would like to be able to testify that the Administration has seen fit to present a comprehensive set of proposals to improve upon its performance of the INS mission but that unfortunately is not the case.

Despite the uncontested growth in numbers of illegal aliens within the society and last year's apprehension of a record number of illegal aliens the Administration is once again failing to seek the addition of enforcement personnel for duty in the interior cities. Similarly the Administration fails to seek the necessary personnel and properly perform service mission. While the Service will now be more capable of stopping

a greater percentage of illegal entrants at the border the Administration unfortunately seeks no additional funds to locate and remove those illegal aliens already within the society. This budget request lends certain credibility to the Administration claimed interest in effective enforcement of the Immigration and Nationality Act. We must not forget, however, that there is still much room for increased efforts to detect and eliminate fraud in the application for Immigration benefits, to hire and train qualified permanent Immigration Inspectors and Investigators and to improve upon the methods and procedures used by the Service to adjudicate petitions and grant benefits under the Immigration and Nationality Act. A year ago my predecessor described the FY'84 request as a status quo budget. We are happy to describe this request as a step in the right direction, but only the first step of what we believe to be a long and arduous journey toward the truly effective performance of the Service's enforcement and service missions.

A prime area for concern in this year's budget request is an idea hidden within the Administration's proposal. The suggestion is that the Service has been able to hold the line on overtime costs and the Administration points proudly to its use of part time and temporary employees. The problem here is that in certain areas the Service is now staffing up to 50% of its inspections positions with temporary appointees who are kept on the job barely long enough to discover what they're supposed to be doing. They are provided with capsulized training, and are released after one or perhaps two years just as they begin to master the complex laws which they are supposed to enforce. The Administration proposes to add no new permanent positions to this program. What we have here is a weak link in our enforcement chain. The Service now employs a total of some 2042 inspectors. Of that number some 865 are temporaries.

The Congress should require the INS to train part-time and temporary inspectors to the same standards as its full time workforce. Additionally, the Congress should require the Service and the Administration to move toward more responsible personnel policies and the elimination of temporary appointments in what should be a permanent full-time officer corps type program. Shortsighted economies in long range programs degrade the end product. This Administration should recognize that it will get only what it pays for.

The Administration's failure to provide additional resources and permanent positions for this program results in the requirement for our members to work six and seven day weeks for months on end. At New York City an inspector must work six six day weeks, each day itself containing overtime, before having a three day weekend.The inspector then resumes another six week cycle. This situation results from understaffing and should be remedied. This understaffing has other costs as well. We mean enforcement costs not simply the terrible personal cost inflicted upon these inspectors. The greatest cost is in terms of lost enforcement effectiveness. At some point it becomes more cost effective to hire additional personnel.

We know that the INS is outstaffed by Customs nation-wide at rates ranging from 4:3 to 2:1. Only recently we have obtained statistics from a Service study on reorganization which reflect that the practice of cross-designation of Customs and Immigration Inspectors has failed to result in effective performance of the INS mission by Customs Service personnel. It appears from the Service's own report that Customs Service personnel have been unable to successfully identify applicants ineligible for admission, their success rates do not approach

even 50% of their INS counterparts. The statistics reflect that even where Customs outmans INS two to one it can not match INS productivity. At San Ysidro, California, for example, although out staffed two to one, INS personnel identify twice as many aliens ineligible for admission as do their Customs counterparts. In other words, at San Ysidro INS personnel are 4 times as productive as their Customs counterparts. At Blaine, Washington, where Customs has 42 primary inspectors to Immigration's 25, the INS Inspectors detect 65% of the ineligible aliens. These examples are repeated across the country. The statistics I refer to are incorporated in a Service study which will be submitted as an appendix to the testimony I will be delivering to this Committee tomorrow.

The Congress should require the Administration to make improved INS enforcement at the ports of entry a major priority.

Investigations

The new case management system, implemented in the fourth quarter of 1983, has changed the emphasis of the Investigations Branch from a quanitative approach to a qualitative approach. The Agency's move towards the completion of higher impact cases, ie: criminal prosecutions, certain large scale fraud schemes and entitlement frauds is clearly a positive move for the Branch and the Agency.

However, we believe that the Agency must <u>not</u> make this change at the expense of investigations which are now deemed to be of "low" priority. In the Agency's Budget request it states that "if resources are not available and the case has no greater

probability of more significant success than those cases currently in progress, the case is dropped. No cases are held in a pending category." What this means, for example, is that there is virtually no chance of an investigation being conducted into a questionable Naturalization application. And that decreasing attention is being given to the detection of marriage frauds -- not because the Sevice is disinterested, but because of manpower limitations. Only the most significant cases are under taken.

In the Los Angles District Office a special mass Naturalization project is underway. Over 300 applications for Naturalization have been approved every day from February 6 through today, yet not even one application has been referred for investigation. In effect, applicants for American citizenship are taken at their word with no verification or investigation into the validity of their claims and this despite the fact that 50% of the files are missing. At other offices a standard 15% of naturalization applications are adjudicated without the permanent INS files. At Los Angeles the Service faces a backlog of 60,000 Naturalization applications and is giving up the store. The Service dealt similarly with a 20,000 case backlog two years ago. The need for recurring give-away projects results from understaffing and poor management.

Funding for the Service must include the resources for mandated investigations into applications where fraud is suspected, even where the case does not now meet the Agency's new "priority acceptance criteria." The Agency cannot be allowed to ignore its responsibility to investigate all suspected fraudulent applications. To bestow American citizenship upon a person is the greatest benefit we have to offer, if we fail to scrutinize the recipients of this benefit

we will all pay for it later. To accept the principle that fraudulent visa petitions must be approved because the costs to detect such fraud are too great will only create a better environment for fraud itself.

A recent Service survey of applications submitted at Washington, D.C., and Los Angeles provides an indication of the dimensions of the problems. I have not received a copy of the narrative portions of this central office survey, but I have received and am attaching a copy of the statistical calculations it contains. What these statistics show is that the service is finding nearly 30% of the applications surveyed to be fraudulent. The Lord knows but that the same figures are accurate across the board, and across the nation.
Now we know that the costs of detecting such fraud is great. I would ask this Committee, however, if the costs of not searching out these fraudulent cases will not be greater in the long run. We suspect it will. By not searching out this fraud, we create a mood which suggests, no matter what our other pronouncements may be, that we still really don't care; that INS enforcement is really window dressing; and that our desire to satisify the cry for immingration benefits overwhelms our commitment to enforce these laws. These laws are more than adequate if vigorously enforced.

The failure to provide sufficent investigation for INS personnel to detect fraud has effects elsewhere. The similar failure of this Administration to provide sufficent personnel in our examination branch has led to massive backlogs and reduced attention to quality control.

In its quest to eliminate these backlogs the Service has moved away from in person interviews by trained officers.

Despite known and growing fraud rates, it has moved toward increased remote adjudication of applications for nearly every type of immigration benefit. This has occurred despite the Service's own prediction of some 260,000 fraudulent applications in FY'83. The Service's own survey discloses that of 872,000 applications, 260,000 of them were fraudulent. Only 45,220 or 5% of the total were declined. I suppose that detecting one fraud out of each 6 occurring is acceptable to some, but I choose to believe it would not be acceptable to the Congress and it is a matter of greatest concern to our membership.

We believe that the Administration, in the interest of economy, rather than efficiency or enforcement is backing away from responsible handling of these applications. We have witnessed here what can only be termed a retreat from proper adjudicatory standards and a conscious effort by the Service to shift to a process of simple recordation and approval of applications. The Service has delegated control over foreign students to our schools, colleges, and universities. We must ask ourselves only one question to realize the danger of such a decision. That question is, "How will we find the alien students during our next international crisis?"

To our great distress, the Service's response to these challenges has been to reduce the number of in person interviews, to delegate adjudicatory authority to lower grade undertrained employees and to further institutionalize the "up front" and "over the counter" approach to the adjudicative process. Remote adjudications centers are now the emphasis of management. Officers who are unable to approve petitions rapidly enough are forced out to lower graded positions. It has become clear that the emphasis at these centers is quantity not quality. Much to my surprise Former

Deputy Commissioner Rizzo brought to my attention the fact that officers laboring at the RACs were suffering from burn out. Professional immigration officers forced to approve massive numbers of applications without interview in the face of the acknowledged fraud rate of 30% can do little but burn out.

CONCLUSION

The Administration is moving toward more effective control of our borders. We applaud this first step by the Administration. We would invite the Congress and the Administration to consider the weaknesses in our inspectional program, and the lack of sufficient investigators to address the recognized problems. We also look forward to the development of realistic staffing levels in the examinations branch and the formulation of appropriate standards for the adjudication of applications for Immigration benefits.

We hope to work with the Subcommittee and the Administration on these issues. I would be happy, Mr. Chairman, to answer any questions the Subcommittee might have.

Thank you.

APPENDIX I

PRELIMINARY RESULTS OF INVESTIGATIONS PILOT FRAUD SURVEY

NUMBER OF APPLICATIONS REVIEWED - 240

I-130	220	(92%)
I-140	19	(7%)
I-485	142	(59%)
I-589	1	(.4%)

TYPE OF RELATIONSHIP CLAIMED AND RESULTS

	TOTAL	(%) OF TOTAL	FRAUD NOT SUSPECTED	(%) OF TYPE	FRAUD SUSPECTED	(%) OF TYPE
EMPLOYEE	19	8	14	74	5	26
PARENT	15	6	14	93	1	7
SPOUSE	191	80	133	70	58	30
SIBLING	5	2	5	100	0	0
CHILD	9	4	6	67	3	33
OTHER/ UNKNOWN	0	0	0	0	0	0

WORKLOAD	FY 80	FY 81	FY 82	FY 83 (PROJECTED)	
TOTAL RECEIPTS					
I-485	139,386	221,603	185,110	202,835 X 30% =	60,850
I-130	448,504	472,241	565,420	638,925 X 30% =	191,678
I-140	27,062	29,346	28,795	31,099 X 26% =	8,086
					260,517
TOTAL DENIED					
I-485	11,865	9,495	14,592	19,243	
I-130	12,430	12,289	17,058	23,409	
I-140	2,142	2,534	2,551	2,568	
					45,220